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Attorneys for Defendants OppenheimerFunds, Inc., OppenheimerFunds
Distributor, Inc., and OFI Private Investments Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

THE STATE OF OREGON, by and through
the OREGON 529 COLLEGE SAVING
BOARD AND THE OREGON STATE
TREASURER on behalf of the OREGON
COLLEGE SAVINGS PLAN TRUST,

Plaintiff,

v.

OPPENHEIMERFUNDS, INC., a Colorado
corporation; OPPENHEIMERFUNDS
DISTRIBUTOR, INC., a New York
corporation; and OFI PRIVATE
INVESTMENTS INC., a New York
corporation,

Defendants.

Civil No.

Marion County Circuit Court
Case No. 09C14018

NOTICE OF REMOVAL

PLEASE TAKE NOTICE THAT Defendants OppenheimerFunds, Inc. ("OFI"),
OppenheimerFunds Distributor, Inc. ("OppenheimerFunds Distributor"), and OFI Private
Investments Inc. ("OFI Private") (collectively "Oppenheimer" or "Defendants") hereby remove
this action from the Circuit Court of the State of Oregon for the County of Marion to the U.S.

District Court for the District of Oregon. This Notice of Removal demonstrates the following grounds for removal:

1. Defendants are named in an action now pending in Marion County Circuit Court, *The State of Oregon by and through the Oregon 529 College Savings Board and the Oregon State Treasurer on behalf of the Oregon College Savings Plan Trust v. OppenheimerFunds, Inc. et al.*, Case No. 09C14018 (the “Beneficiary Action”). In general, the Beneficiary Action seeks damages for investment losses suffered by thousands of beneficiaries of the Oregon College Savings Plan Trust and alleges state securities fraud and state common-law claims against Defendants related to their involvement with the Oregon 529 College Savings Network. (See Complaint, *The State of Oregon by and through the Oregon 529 College Savings Board and the Oregon State Treasurer on behalf of the Oregon College Savings Plan Trust v. OppenheimerFunds, Inc. et al.*, Case No. 09C14018, Marion County Circuit Court (the “Complaint”), attached as Exhibit A hereto.)

2. Attached as Exhibit B is a copy of the Summons served on OFI on April 20, 2008. A copy of the Complaint (Exhibit A) was also served on OFI on April 20, 2008.

3. Attached as Exhibit C is a copy of the Summons served on OppenheimerFunds Distributor on April 20, 2008. A copy of the Complaint (Exhibit A) was also served on OppenheimerFunds Distributor on April 20, 2008.

4. Attached as Exhibit D is a copy of the Summons served on OFI Private on April 20, 2008. A copy of the Complaint (Exhibit A) was also served on OFI Private on April 20, 2008.

5. Attached as Exhibit E is a certified copy of the trial court file in the State Action as of approximately 12:00 p.m. on May 13, 2009. Attached as Exhibit F is a copy of the Oregon

Judicial Information Network docket related to the Beneficiary Action as of approximately 3:00 p.m. on May 14, 2009.

6. Exhibits A through D constitute all of the process, pleadings, and orders served on Defendants. Exhibit E constitutes all of the process, pleadings, and orders filed in the Beneficiary Action, contained in the trial court file, and available to Defendants as of May 13, 2009.

7. Defendants have not yet answered or otherwise responded to the Summons and Complaint. This Notice of Removal is filed timely within 30 days after service of the Summons and Complaint.

8. The Beneficiary Action may be removed to this Court pursuant to the provisions of 15 U.S.C. §§ 77p(b) and 78bb(f) because it meets all the requirements of the Securities Litigation Uniform Standards Act:

- a. First, the Beneficiary Action is a covered class action. Damages are sought on behalf of more than 50 persons, and questions of law or fact common to those persons, without reference to issues of individualized reliance on an alleged misstatement or omission, predominate over any questions affecting only individual persons.
- b. Second, the Beneficiary Action is based on state statutory and common law. Plaintiffs assert claims under the Oregon Securities Law (Or. Rev. Stat. §§ 59.115, 59.135, and 59.137) and state common law claims for breach of contract, breach of fiduciary duty, negligence, and negligent misrepresentation. (Compl. ¶¶ 105-46.)

- c. Third, with respect to all six Claims for Relief in the Beneficiary Action, Plaintiffs have alleged misrepresentations or omissions of a material fact. (*E.g.*, Compl. ¶¶ 6, 106-08, 117, 125-27, 132, 138-39, 143-44.)
- d. Fourth, Plaintiffs allege that those alleged misrepresentations and omissions were made in connection with the purchase or sale of a covered security, including but not limited to shares of the Oppenheimer Core Bond Fund. (*E.g.*, Compl. ¶¶ 3-6.)
- e. Fifth, the Beneficiary Action is not brought by a State or political subdivision thereof on its own behalf. 15 U.S.C. §§ 77p(d)(2)(A), 78bb(f)(3)(B)(i). Although the State of Oregon is named in the caption, the action is brought by the trustees of the Oregon College Savings Plan Trust, and the trustees are seeking damages on behalf of the beneficiaries of the Trust. *See* ORS 348.869 (“The State of Oregon has no proprietary interest in the contributions or earnings of the Oregon 529 College Savings Network. Except as otherwise provided by law, the Oregon 529 College Savings Board is the trustee of the contributions and earnings.”)

9. Counsel for Oppenheimer certifies that Oppenheimer will file a copy of this Notice of Removal with the Clerk of the Marion County Circuit Court and give notice to counsel for Plaintiffs. This Notice is signed pursuant to Federal Rule of Civil Procedure 11.

WHEREFORE, Defendants remove the above-captioned action now pending against them in the Circuit Court of the State of Oregon for the County of Marion to the U.S. District Court for the District of Oregon, where it shall proceed.

DATED: May 15, 2009

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Marion County Circuit Court

A CERTIFIED TRUE COPY
Paul C. Paul
OF ATTORNEYS FOR

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

THE STATE OF OREGON, by and through
the OREGON 529 COLLEGE SAVINGS
BOARD AND THE OREGON STATE
TREASURER on behalf of the OREGON
COLLEGE SAVINGS PLAN TRUST,

Plaintiff,

v.

OPPENHEIMERFUNDS, INC., a Colorado
corporation; OPPENHEIMERFUNDS
DISTRIBUTOR, INC., a New York
corporation; and OFI PRIVATE
INVESTMENTS, INC., a New York
corporation;

Defendants.

Case No.

09C14018

COMPLAINT FOR VIOLATION OF
THE OREGON SECURITIES LAW,
BREACH OF CONTRACT, BREACH
OF FIDUCIARY DUTY,
NEGLIGENCE, AND NEGLIGENT
MISREPRESENTATION

CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION

JURY TRIAL DEMANDED

1 Plaintiff State of Oregon, by and through the Oregon 529 College Savings Board
 2 ("Plaintiff" or the "Oregon Board") and the Oregon State Treasurer on behalf of the Oregon
 3 College Savings Plan Trust (the "Oregon Trust") alleges as follows:

4 I. INTRODUCTION AND NATURE OF THE ACTION

5 1.

6 The Oregon Board initially hired Defendants OppenheimerFunds, Inc. ("OFI") and
 7 OppenheimerFunds Distributor, Inc ("OFDI") pursuant to a Program Management Agreement
 8 ("PMA") in June 2004. Pursuant to that agreement, Defendants agreed to provide the Oregon
 9 529 College Savings Plan (the "Oregon Plan") with investment and program management
 10 services that would benefit families saving for their children's higher education. At some point
 11 after that date, OFI may have attempted to delegate or delegated some of its management duties
 12 to Defendant OFI Private Investments, Inc. ("OFI Private"). OFI, however, continued to be
 13 bound to all of its management duties under the contract and at law.

14 2.

15 Pursuant to the PMA, OFI agreed that the investments it recommended for children's
 16 college funds would be consistent with the Oregon Board's approved investment policy
 17 ("Investment Policy"). It also agreed to update the Oregon Board if there were any material
 18 changes to the investments in the Oregon Plan and make necessary changes to the Plan as a
 19 result. The Investment Policy made perfectly clear to Defendants that college savings plan
 20 beneficiaries who wished to be in an Ultraconservative or Conservative portfolio would be
 21 provided conservative investments whose objectives were "income" and "protection of
 22 principal" with "minimal growth." Even for those who wished to invest in moderate, balanced
 23 and more aggressive portfolios, OFI agreed to provide bond funds that would be conservative
 24 investments to protect against the volatility of equity securities in those portfolios.

3.

In addition to duties owed to the Trust by contract, OFI owed fiduciary duties to the Trust as an investment adviser that provided investment advice intended to benefit the Trust and, ultimately, families and children saving for college. Those duties included the duties of care, loyalty, honesty, and full and fair disclosure of all material facts. As discussed at length below, defendants violated their duties to the Trust by, among other things, continuing to recommend and sell the OppenheimerFunds Core Bond Fund ("Core Bond Fund") to all of the Trust portfolios and failing to inform the Board of the substantial changes in risks that the managers of the Core Bond Fund had undertaken by late 2007 or early 2008.

4.

From the outset in 2004, OFI recommended, solicited, and sold the OppenheimerFunds Core Bond Fund (originally presented as the Oppenheimer Bond Fund) to the Oregon Plan's various portfolios. OFI recommended and sold the Core Bond Fund as a straightforward bond fund that invested mainly in high quality corporate bonds with an ancillary focus on government bonds. In 2004 and for the first few years, the Core Bond Fund appeared to be what OFI represented it to be.

5.

Over time, however, and without discussion with the Board, the Core Bond Fund underwent a radical transformation. By late 2007 or early 2008, the Core Bond Fund was no longer a plain bond fund that sought to protect principal, obtain income and minimal growth through corporate and government debt securities. It had become a hedge-fund like investment fund that took extreme risks in a search for speculative large returns. It began, among other things, to sell credit default swaps and other high-risk derivative instruments to Wall Street firms, promising to pay and insure those Wall Street firms if they lost money as a result of defaults in mortgage-backed securities investments. These were high-risk bets that were plainly inappropriate for those saving for college or in college.

6.

Defendants knowingly failed to disclose the following material facts in violation of their contractual duties and Oregon law:

- (a) The Core Bond Fund was no longer an appropriate investment for anyone seeking conservative investments or protection of principal because by late 2007 or early 2008 it had become a hedge-fund like investment fund that took excessive risks through speculative investment strategies;
- (b) The Core Bond Fund was particularly inappropriate for anyone who was in college or within a few years to college because the risks the fund had undertaken exposed it to substantial losses at a time when families and individuals needed immediate or imminent access to their money;
- (c) As of late 2007 or early 2008, the Core Bond Fund had engaged in a new strategy of investing in high-risk derivatives (credit default swaps and total return swaps) and mortgage-backed securities that were not designed to protect principal or obtain minimal growth but to achieve outsized returns through extraordinary risks that had the potential for (and ultimately resulted in) staggering losses;
- (d) The Core Bond Fund was actually managed according to a more aggressive strategy by which it took far greater risks than initially disclosed to the Oregon Board; and,
- (e) The Core Bond Fund investment managers ignored the warnings of its own risk managers when the Fund exceeded its risk controls and risk budget in April 2008. Rather than adjust its risk downward, the Core Bond Fund changed its risk controls and risk metrics in order to allow it to take even greater risks. In fact, after receiving these warnings from its own risk managers, the OFI portfolio managers decided that they would, in their own words, place "big bets" with the college savings plan's and other investors' money, speculative bets that they knew to be in excess of OFI's risk controls.

7.

As the result of its speculation, the Core Bond Fund suffered losses in 2008 and 2009 that OFI itself characterized as "mind-numbing." The Core Bond Fund lost over 35 percent of its value in 2008 and continued to fall precipitously another 10% in the first three months of 2009.

8.

Not until late October of 2008, after the Oregon Trust (and thereby families' college savings accounts) had already lost millions as a result of its investment in the Core Bond Fund, did OFI even begin to suggest to the Oregon Board just a few of the changes in the

1 characteristics of the Fund. Even at that time, however, OFI continued to reassure the Oregon
 2 Board and advised it to remain invested in the Core Bond Fund. Despite OFI's assurances, in
 3 late 2008 and early 2009, the Oregon Board began an investigation into the Fund. At a meeting
 4 in late January 2009, the Oregon Board voted to begin to terminate the Oregon Plan's
 5 participation in the Core Bond Fund (and the Oppenheimer Funds Limited Term Government
 6 Bond) and finalized that plan at a follow-up meeting in February 2009.

7 9.

8 The Oregon Trust's losses are the direct result of Defendants' breach of contractual
 9 duties, breach of fiduciary duties owed to the Oregon Trust, negligence, and violations of the
 10 Oregon Securities Law.

11 10.

12 The State of Oregon created the Oregon Board and Oregon Trust. The Oregon Treasurer
 13 chairs the Oregon Trust. Through this action, the Oregon Board, on behalf of the Oregon Trust,
 14 seeks to recover the damages suffered by the Oregon Trust and the many Oregon families who
 15 lost substantial amounts of their college savings as the result of Defendants' wrongdoing.

16 II. PARTIES

17 11.

18 The Oregon Board was created to establish, implement and maintain the Oregon 529
 19 College Savings Network (the "Oregon 529 Network"). The Oregon Board members are the
 20 trustees of the Oregon Trust, which holds the funds invested in the Oregon Plan.

21 12.

22 Defendant OFI is a Colorado corporation with its principal place of business in New
 23 York. OFI is a registered investment adviser with the Securities and Exchange Commission
 24 ("SEC").

13.

Defendant OFDI is a New York corporation with its principal place of business in New York. OFDI is a registered broker-dealer with the Financial Industry Regulatory Authority ("FINRA").

14.

Defendant OFI Private is a New York corporation with its principal place of business in New York. OFI Private is a wholly owned subsidiary of OFI and a registered investment adviser with the SEC. Where Plaintiff alleges a violation of OFI's duties arising out of its role as a program manager, such duties are also the duties of defendant OFI Private and, therefore, such references to OFI include OFI Private.

III. JURISDICTION AND VENUE

15.

This Court has subject matter jurisdiction over the Oregon Securities Law claims under Article VII, section 9 of the Oregon Constitution.

16.

This Court has personal jurisdiction over Defendants under ORCP 4(J)(2), which provides for personal jurisdiction over any person who engages in conduct in violation of the Oregon Securities Law.

17.

Violations of law occurred in Marion County, Oregon, including the dissemination of materially false and misleading statements complained of herein. Defendants have regular sustained business activity in Marion County.

18.

This Court has jurisdiction over Defendants pursuant to a contractual forum selection clause found at Section 18.9 of the PMA by and between the State of Oregon, acting by and through the Oregon 529 College Savings Board, on the one hand, and Defendants OFI and

1 OFDI, on the other hand, dated as of June 4, 2004. Defendant OFI Private may have been or was
 2 delegated some duties under that contract and may also be a party thereto. The forum selection
 3 clause is binding on each Defendant and provides that any action arising from or relating to the
 4 PMA "shall be brought and conducted solely and exclusively within the Circuit Court of Marion
 5 County for the State of Oregon"

6 **IV. CLAIMS NOT SUBJECT TO REMOVAL FROM STATE COURT**

7 19.

8 The claims alleged in this Complaint are not subject to removal from state court under the
 9 Securities Litigation Uniform Standards Act, 15 USC §77p(d)(2)(A). That statute specifically
 10 preserves state-court claims brought, as here, by states and political subdivisions thereof.

11 Further, the claims are not subject to removal under diversity jurisdiction principles because
 12 "[t]here is no question that a State is not a 'citizen' for purposes of the diversity jurisdiction."

13 *Moor v. County of Alameda*, 411 US 693, 717, 93 S Ct 1785, 36 L Ed 2d 596 (1973). The
 14 United States District Court for the District of Oregon recently held on two separate occasions
 15 that the State of Oregon and its entities are not citizens for diversity jurisdiction and, thus,
 16 remanded similar state securities law complaints by State entities to State court. *State of Oregon*
 17 *by and through the Oregon Public Employee Retirement Board and the Oregon State Treasurer*
 18 *on behalf of the Oregon Public Employee Retirement Fund v. Marsh & McLennan Co's, Inc.*,
 19 USDC Oregon CV-05-1434PK, Opinion and Order (Jan. 27, 2006); *State of Oregon by and*
 20 *through the Oregon Public Employee Retirement Board and the Oregon State Treasurer on*
 21 *behalf of the Oregon Public Employee Retirement Fund v. American Int'l; Group, Inc.*, USDC
 22 Oregon CV-08-6110-HO, Opinion and Order, (Aug. 20, 2008). As a result, this case will
 23 proceed in the Circuit Court of the State of Oregon.

24 20.

25 The claims alleged in this Complaint are also not subject to removal from state court
 26 pursuant to the forum selection clause found at Section 18.9 of the PMA. The forum selection

1 clause is binding on each Defendant and provides that any action arising from or relating to the
 2 PMA "shall be brought and conducted solely and exclusively within the Circuit Court of Marion
 3 County for the State of Oregon" This action arises from and relates to the PMA.

4 **V. FACTUAL ALLEGATIONS**

5 **A. Background of the Oregon 529 College Savings Network**

6 21.

7 The Oregon 529 Network was created by the Oregon legislature in 1999 and commenced
 8 in January 2001 in order to provide families and others a tax-advantaged opportunity to save for
 9 the cost of higher education expenses. A 529 plan (named after Section 529 of the Internal
 10 Revenue Code) is an education savings plan designed to encourage families to save in advance
 11 for college expenses through the use of tax incentives. Funds invested in the Oregon Plan by
 12 plan participants are placed in the Oregon Trust. The Oregon Trust, in turn, relies on the
 13 investment information and services provided by Defendants to invest those funds for the
 14 Oregon Trust beneficiaries.

15 22.

16 Plan participants make contributions to individual accounts for the benefit of designated
 17 beneficiaries whose education expenses may be paid using money from the account. The monies
 18 invested in the individual accounts are part of the Oregon Trust. Title to the assets held in the
 19 Oregon Trust is vested in the Oregon Board as trustees of the Oregon Trust. The Oregon Board
 20 operates the Oregon Trust for the benefit of the designated beneficiaries.

21 23.

22 The Oregon 529 Network provides different methods for the investment of funds in the
 23 Oregon Plan. There is a "direct-sold" option available directly from the Oregon 529 Network. It
 24 includes portfolios of funds that have been assembled and recommended by the Oregon 529
 25 Network's investment adviser, Defendant OFI. OFI also manages the underlying funds in each
 26 portfolio. The funds in these portfolios are distributed by Defendant OFDI. There is also an

1 “adviser-sold” option that includes nearly identical portfolios but is provided only through
 2 financial advisers. The term “Oregon Plan” as used herein refers to both the “direct-sold” and
 3 “adviser-sold” investment options.¹

4 24.

5 The Oregon Plan offers plan participants three ways to select the investment approach
 6 and type of risk that they as investors want to incur in saving for their children’s college: (1) the
 7 Lifestyle Option, (2) the Years to College Option, and (3) the Single Fund Portfolio Option. The
 8 Single Fund Portfolio Option is not involved in this action because it did not hold investments in
 9 the Core Bond Fund.

10 25.

11 The Lifestyle Option offers investment portfolios with various levels of risk. The
 12 portfolio options are: (1) OppenheimerFunds 100% Equity Portfolio, (2) OppenheimerFunds
 13 Aggressive Portfolio, (3) OppenheimerFunds Moderate Portfolio, (4) OppenheimerFunds
 14 Balanced Portfolio, (5) OppenheimerFunds Conservative Portfolio, and (6) OppenheimerFunds
 15 Ultra Conservative Portfolio. The plan participants choose among the portfolios and their funds
 16 remain in the selected portfolio(s) until the participant requests they be moved.

17 26.

18 The Years to College Option automatically moves the participant’s account to lower risk
 19 portfolios as the designated beneficiary nears college. The Years to College Option utilizes five
 20 of the portfolios also available in the Lifestyle Option. For accounts whose designated
 21 beneficiary is 10-plus years to college, the account is invested in the OppenheimerFunds
 22 Aggressive Portfolio (the “Aggressive /10+ Years to College Portfolio”). For accounts whose
 23 designated beneficiary is seven to nine years to college, the account is invested in the

24
 25 ¹ The “direct-sold” option also includes portfolios assembled by Vanguard and the “adviser-
 26 sold” option includes portfolios assembled by MFS. None of those portfolios or their underlying
 funds is involved in this action.

1 OppenheimerFunds Moderate Portfolio (the "Moderate /7-9 Years to College Portfolio").² For
 2 accounts whose designated beneficiary is four to six years to college, the account is invested in
 3 the OppenheimerFunds Balanced Portfolio (the "Balanced /4-6 Years to College Portfolio"). For
 4 accounts whose designated beneficiary is one to three years to college, the account is invested in
 5 the OppenheimerFunds Conservative Portfolio (the "Conservative /1-3 Years to College
 6 Portfolio"), and for accounts whose designated beneficiary is in college, the account is invested
 7 in the OppenheimerFunds Ultra Conservative Portfolio (the "Ultra Conservative/In College
 8 Portfolio"). In the appropriate years, the funds are moved between the portfolios on the first
 9 business day of August.

10 27.

11 The more conservative portfolios have always been represented by Defendants as having
 12 objectives of "income and protection of principal" and "preservation of capital." As discussed
 13 further below, these portfolios were never intended to take hedge-fund like risks or strive to
 14 obtain high-risk returns that might expose someone in college or nearly in college to substantial
 15 losses at exactly the time that they intend to use their money. As was abundantly clear to
 16 Defendants, those in college or nearly in college cannot afford to take huge risks with money that
 17 will be used either immediately or imminently. Further, all of the portfolios were to have
 18 conservative investments, including the Core Bond Fund, within them.

19 **B. The Oregon Board hires OFI as a fiduciary to provide investment advice to**
 20 **the Oregon Trust according to the Oregon Trust investment policy and**
 21 **applicable law.**

22 28.

23 The Oregon Board engages a professional investment adviser and program manager to
 24 advise the Board and invest Oregon Trust assets. The Oregon Board relies on the investment
 25 adviser to provide it with recommendations that are consistent with the Board approved

26 ² The length of some of the Years to College Portfolios in the adviser-sold plan was extended in April 2008.

Investment Policy and to invest the college savings plan money accordingly. On November 13, 2003, the Oregon Board voted to replace Strong Capital Management, Inc. as a program manager for the Oregon 529 Network. The Oregon Board interviewed numerous potential program managers before choosing OFI. On February 17, 2004, the Oregon Board voted to select OFI as program manager for the Oregon Plan.

29.

In making the decision to select OFI as the program manager, the Oregon Board relied upon information provided to it by Defendants including, among other things, representations by OFI that it would recommend investment funds for the various plan portfolios that were consistent with the investment objectives of each portfolio.

30.

In addition, OFI presented the Oregon Board with a proposal in which it said that it was a client-focused firm offering excellent investment management and award winning customer service. OFI described itself as well respected and represented that it operated with integrity. The Oregon Board relied upon these representations in voting to select OFI as the program manager.

31.

Subsequently, the Oregon Board, on behalf of the Oregon Trust, entered into the PMA dated June 4, 2004, with Defendants OFI and OFDI. Pursuant to the PMA, OFI became the Program Manager for the Oregon Plan and OFDI (a registered broker-dealer) became the distributor for the Oregon Plan.

32.

Under certain conditions, the PMA allows OFI to delegate the performance of its contractual duties to an affiliate. In the event of any delegation, OFI is "deemed to have full control over its delegates," and remains responsible for the performance of its contractual duties as if no delegation was made. PMA, Section 2.2. At some point prior to December 20, 2007,

1 OFI may have attempted to delegate or did delegate its Program Management duties under the
 2 PMA to OFI Private, but Oregon did not receive a written notice of delegation as required under
 3 Section 2.2 of the PMA.

4 33.

5 The PMA contained numerous provisions requiring Defendants, among other things, (1)
 6 to recommend investment portfolios consistent with the Oregon Plan's Investment Policy, (2) to
 7 ensure that once selected, those portfolios and the underlying funds remained consistent with the
 8 Investment Policy, and (3) to regularly report to the Oregon Board on any significant issues,
 9 events or changes in the portfolios or the underlying funds.

10 34.

11 Pursuant to the PMA, Defendants made a number of certifications, including the
 12 following:

13 (A) [that] all portions of the Plan Description for the [Oregon Plan]
 14 ... are true and accurate in all material respects, (B) to the best of
 15 [Defendants'] knowledge, based solely ... on [their] due diligence
 16 review and discussions concerning the Plan Description for the
 17 [Oregon] Plan, the Plan Description for the [Oregon] Plan
 18 completely and accurately describes the [Oregon] Plan and does
 19 not contain any untrue statement of a material fact or omit to state
 a material fact necessary to make the statements made therein not
 misleading in light of the circumstances under which they were
 made, and (C) each of the representations and warranties of
 [Defendants] set forth in [Section 13] shall be true and correct in
 all material respects as of the Start Date as if made on and as of the
 Start Date. (PMA, Sections 3.2(b)(ii) and (iii)).

20 35.

21 Pursuant to Section 13 of the PMA, OFI made the following representations, warranties
 22 and covenants:

- 23 (a) "[t]he Plan Marketing Materials ... shall not contain any untrue statement of
 24 material fact or omit to state a material fact necessary to make the statements not
 25 misleading" (Section 13.1(h));
- 26 (b) that "[t]he operations of [Defendants] are and will at all times during the term of
 this Agreement be in material compliance with all laws, rules, regulations, orders
 and restrictions of any federal, state, county, municipal, or local government or
 governmental body or agency applicable to their operations ..." (Section 13.1(i)).

36.

Pursuant to Section 13 of the PMA, OFDI made the following representations, warranties and covenants:

- (a) "[t]he Plan Marketing Materials provided or prepared by OFDI ... shall not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements not misleading" (Section 13.2(h));
- (b) that "[t]he operations of OFDI are and will at all times during the term of this Agreement be in material compliance with all laws, rules, regulations, orders and restrictions of any federal, state, county, municipal, or local government or governmental body or agency applicable to its operations ..." (Section 13.2(i)).

37.

The PMA imposes, among others, the following duties on Defendants:

- (a) OFI and OFDI's duty to deliver to the Oregon Board certificates relating to various matters (including the accuracy of Oregon Plan documents and compliance with applicable law) in the event they "know of any new or changed circumstances ..." (Section 3.6);
- (b) OFI's duty to "invest and manage the assets of the [Oregon] Trust as investment agent of the [Oregon] Board" in accordance with the Investment Policy (Section 4.1);
- (c) OFI's duty to provide to the Board "all information about [fund managers] and Underlying Funds ... as may be required for the [Oregon] Board to carry out its duties as trustees of the [Oregon] Plan Trust," and to "review the Investment Portfolios and Underlying Funds utilized in the [Oregon] Plan and propose changes thereto in accordance with Article V [of the PMA]" (Section 4.1);
- (d) OFI's duty to recommend Investment Portfolios having "the characteristics ... described in the then-current Plan Description" (Section 4.4);
- (e) OFI's duty to "invest the assets in each of the Investment Portfolios in the Underlying Funds so that such assets are allocated according to guidelines established by OFI and approved by the Board ..." (Section 5.2(a));
- (f) OFI's duty to determine that "the investment objectives, policies and practices of the Underlying Funds in which [Oregon] Trust assets are invested are consistent with the [Oregon] Board's Investment Policy and applicable law" (Section 5.2(b));
- (g) OFI's duty to "at least annually, review the Investment Portfolios of the [Oregon] Plan" (Section 5.3);
- (h) OFI's duty to "from time to time propose the addition of new Investment Portfolios, the removal of existing Investment Portfolios, or the modification of

Page 12 - COMPLAINT

Department of Justice
1162 Court Street, NE
SALEM, OREGON 97301-4096
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EXHIBIT

A

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the Underlying Funds in which certain existing Investment Portfolios invest . . . , all in accordance with the applicable Investment Policy and subject to Board approval." (Section 5.3);

- (i) OFI's duty to "deliver to the Board quarterly and annual reports on . . . Investment Portfolio performance . . ." (Section 8.2);
- (j) OFI's duty to prepare all Plan Marketing Materials (Section 9.1(a)); and
- (k) OFI's duty to (1) amend or supplement the Plan Description "in order to reflect material developments arising subsequent to the preparing and delivery of the initial Plan Description," (2) to notify the Board "of any development of which [they are] aware that would be material to the [Oregon] Plan that is not disclosed in, or is inconsistent with, the applicable Plan Description then in effect," and (3) to "suggest modifications to the applicable Plan Description reflecting such material development" (Section 9.1(b)).

38.

As noted above, OFI had a duty to invest and manage the assets of the Oregon Trust in accordance with the Investment Policy of the Oregon Board. The Investment Policy of the Oregon Board is contained in a document titled Adopted Investment Objectives Policies and Practices, dated June 4, 2004. The Investment Policy imposes the following additional duties on OFI:

[OFI] shall provide quarterly investment reports to the [Oregon] Board that include investment performance, applicable benchmark performance, [Oregon] Plan assets, and the number of Accounts in each of the Plan's investment options. The report shall include significant issues and events or changes in [Oregon] Plan Portfolios and Underlying Funds that have occurred during the last reporting period. A detailed report shall be presented to the [Oregon] Board annually, which analyzes the investments supporting the [Oregon] Plan's investment options.

39.

The Investment Policy also describes the investment options available to plan participants. With respect to the Ultra Conservative/In College Portfolio, the Investment Policy states that this portfolio is to:

Invest in bond and money market investments in order to seek the Portfolio's objectives of income and protection of principal. This Portfolio seeks preservation of capital with minimal growth by investing primarily in bond Underlying Funds and money market

Underlying Funds to maintain stability. The target allocation is 60 percent bond Underlying Funds, and 40 percent in money market Underlying Funds. (Emphasis added.)

40.

With respect to Conservative/1-3 Years to College the Investment Policy states that this portfolio is to:

Invest primarily in bond and money market investments in order to seek the Portfolio's objectives of income and protection of principal. This Portfolio seeks preservation of capital with minimal growth by investing primarily in bond Underlying Funds to maintain stability. The target allocation is 20 percent equity Underlying Funds and 80 percent in bond Underlying Funds. (Emphasis added).

41.

With respect to the Balanced/4-6 Years to College Portfolio, the Investment Policy states that this portfolio is to:

Invest in a combination of conservative and aggressive investments in order to seek the Portfolio's objectives of both capital appreciation and income. This Portfolio seeks moderate growth by investing in a balanced asset allocation slightly weighted toward bond Underlying Funds over equity Underlying Funds. This Portfolio has a target allocation of 40% equity Underlying Funds and 60% bond Underlying Funds. (Emphasis added).

42.

With respect to the Moderate Portfolio/7-9 Years to College Portfolio the Investment Policy states that this portfolio is to:

Invest in a combination of conservative and aggressive investments in order to seek the Portfolio's objectives of both capital appreciation and income. This Portfolio seeks moderate growth by investing in a balanced asset allocation slightly weighted toward equity Underlying Funds over bond Underlying Funds. This Portfolio has a target allocation of 60% equity Underlying Funds and 40% bond Underlying Funds. (Emphasis added).

43.

With respect to the Aggressive Portfolio/10+ Years to College the Investment Policy states that this portfolio is to:

Invest primarily in equity investments in order to seek capital appreciation. This Portfolio seeks long-term growth by investing primarily in equity Underlying Funds. A percentage of assets will be invested in bond Underlying Funds to provide some protection from equity volatility. This Portfolio has an asset allocation target of 80% equity Underlying Funds and 20% bond Underlying Funds. (Emphasis added).

44.

Pursuant to its responsibilities under the PMA and the Investment Policy, OFI recommended portfolio allocations and underlying funds for those portfolios. Initially, OFI proposed only two underlying funds, the OppenheimerFunds Bond Fund and the OppenheimerFunds Main Street Opportunity Fund. The Oregon Board requested additional choices and OFI eventually recommended portfolios that included allocations to 7 underlying funds, as well as a money market fund. OFI also provided the Oregon Board with a number of different allocation scenarios that it recommended, and represented that these scenarios were consistent with the investment objectives of the various portfolios as stated in the Investment Policy. The Oregon Board relied upon the advice and recommendations of its Program Manager, OFI.

45.

The final portfolios contained allocations to the Bond Fund as follows:

<u>Portfolio</u>	<u>% in OppenheimerFunds Bond Fund</u>
Ultraconservative	20
Conservative	35
Balanced	30
Moderate	20
Aggressive	10

These percentages adjusted slightly in April 2008 for those Portfolios sold in the "adviser-sold" plan. They remained the same in the "direct-sold" plan.

C. The Oppenheimer Bond Fund, a seemingly conservative bond fund, changes its investment style and increases its risk over time, from 2004 to 2008.

1. The Core Bond Fund takes undisclosed risks.

46.

As stated above, for each of the portfolios in the Oregon Plan that OFI managed, it recommended the Oppenheimer Bond Fund. Subsequently, this fund was renamed the Oppenheimer Funds Core Bond Fund. In 2004, OFI represented to the Oregon Board that the Oppenheimer Bond Fund

is designed to take advantage of opportunities presented by a wide range of high quality corporate bonds combined with an ancillary focus on government bonds, including mortgage agency paper. This broad diversification is designed to give us the flexibility to provide competitive yields from a portfolio with potentially less volatility.

47.

The Oregon Board paid OFI \$250,000 to \$350,000 in program management fees (based on a percentage of the total plan assets) to advise the board and select investment funds consistent with the adopted Investment Policy. OFI also acted as the investment manager for the Core Bond Fund in which the Oregon Plan was heavily invested. The Oregon Trust, as an investor in the Core Bond Fund, also paid OFI a separate investment management fee of approximately 50 basis points (varying over time) to manage the Core Bond Fund. (A basis point is 1/100 of a percent so that 50 basis points equal .50 percent). This was approximately \$300,000 per year in additional Core Bond Fund management fees over the last two years. The Oregon Trust also paid other sales, marketing, and “other expense” charges charged directly by the Core Bond Fund. As the investment manager for the Core Bond Fund, OFI chose the underlying securities that were purchased in the Core Bond Fund and ultimately made the decision to turn the Core Bond Fund into a high-risk, hedge-fund like investment fund.

1 48.

2 Due to its position as the investment manager for the Core Bond Fund, OFI was in the
3 unique position of having complete access to information regarding the Core Bond Fund and its
4 investment activities. Despite the fact that it was managing the Core Bond Fund, and therefore
5 clearly was aware of Core Bond Fund's changing objectives and risks, until January 22, 2009,
6 OFI never indicated to the Oregon Board that the objectives or risk profile of the Core Bond
7 Fund had been changed or modified. In fact, OFI continued to recommend and represent that the
8 Core Bond Fund was appropriate for all of the Oregon Plan portfolios, including the
9 Conservative and Ultra Conservative Portfolios. However, for the first time, on January 22,
10 2009, OFI's Chief Investment Officer, Kurt Wolfgruber, informed the Oregon Board that the
11 Core Bond Fund was "a long-term vehicle, appropriate for investors who are willing to assume
12 the risk of investing in broadly defined, taxable, fixed income securities and can also handle the
13 risk of the impact of changing interest rates on those securities' prices. To be clear, the fund was
14 not a short-term bond fund."

15 49.

16 OFI never disclosed this information to the Oregon Board at any time before January 22,
17 2009. OFI also stated for the first time, on October 23, 2008, that the Core Bond Fund was
18 actually being managed by a "Core Plus" strategy. At no time before October 23, 2008, did OFI
19 even use the term Core Plus with respect to the Core Bond Fund.

20 50.

21 The difference between Core and Core Plus is significant to those who are
22 knowledgeable about mutual fund names and strategies because a Core Plus strategy allows the
23 managers to reach for greater returns, and grants them greater latitude to construct a portfolio
24 that deviates from the benchmark index. For example, the objective of OFI's Core strategy was
25 to achieve excess returns, relative to its benchmark, of 75 basis points. The Core Plus strategy
26 seeks to achieve even greater returns relative to the same benchmark, from 100 to 125 basis

1 points (or 1 to 1.25 percent). In other words, the Core Plus strategy seeks to achieve excess
 2 returns of as much as 160 percent greater than the Core strategy. It is a well-known principle in
 3 fixed income investing that significantly greater returns can only be achieved through the
 4 assumption of greater risk, and that was precisely the outcome from this undisclosed switch to a
 5 higher return objective.

6 51.

7 In the case of the Core Plus strategy, that greater risk was incurred through a relaxation of
 8 restrictions on acceptable portfolio construction. This is evident in the large difference in the
 9 allowable "tracking error" range between the Core and Core Plus strategies. Tracking error
 10 measures how closely an investment fund follows the index to which the fund is benchmarked.
 11 In this instance, the Core Bond Fund was benchmarked against the Lehman Brothers (now
 12 Barclays Capital) Aggregate Bond Index. A higher tracking error indicates that the fund
 13 manager has greater discretion and intends to take a higher risk in order to deviate from a pure
 14 replication of the benchmark index. As alleged in detail below, the Core Bond Fund
 15 substantially exceeded its assigned tracking error relative to its benchmark bond index.

16 52.

17 For the Core strategy, the acceptable tracking error range is between 75 to 125 basis
 18 points. This means that the portfolio managers have license to construct a portfolio that differs
 19 from the benchmark index, provided that the difference in expected return of the portfolio versus
 20 the index falls between 75 to 125 basis points (or .75 to 1.25 percent). The Core Plus strategy,
 21 on the other hand, operated within a tracking error range of 125 to 200 basis points. This 160
 22 percent increase in the tracking error range provides a much wider tolerance for the construction
 23 of a portfolio that could differ significantly, up or down, from its performance benchmark.

24 53.

25 Until October 23, 2008, well after significant losses had already occurred, OFI never
 26 disclosed to the Oregon Board that the Core Bond Fund was operated with a Core Plus strategy.

1 Even then, the disclosure occurred only in an offhanded manner, without any real reference to
 2 the significant differences. From 2004 through 2006, the Core Bond Fund generated returns
 3 consistent with what one would expect from a fund with a name like Core Bond Fund. Despite
 4 the undisclosed additional risks with respect to its benchmark that it might have been taking
 5 during this period, it seemed to provide low volatility, protection of principal, and income.
 6 Accordingly, there were no performance issues that might have raised suspicion about the
 7 management of the fund. In 2007, however, the Core Bond Fund altered its investment style and
 8 risk profile and began to significantly increase its risk. Most significantly, the Core Bond Fund
 9 began to seek alternative investments in the hopes of seeking much higher returns, including
 10 dramatically increasing its use of derivative instruments and purchasing highly volatile
 11 mortgage-related bonds.

12 54.

13 In addition, the Core Bond Fund began to take unnecessary risks by significantly
 14 increasing its use of leverage. OFI failed to disclose or discuss this change in investment
 15 strategy to the Oregon Board. While the use of leverage can increase the potential return of a
 16 fund, it also greatly increases the potential loss. The reason that leverage has this two-edged
 17 effect is that it allows a fund to participate in the gains and losses on a pool of assets that is
 18 greater than the amount of dollars actually invested in the fund. Any gains on those extra assets
 19 flow directly to the shareholders, but any losses come directly out of the investors' capital. In
 20 effect, investors are in a first-loss position, much like a homeowner who buys a house with a
 21 down payment and a mortgage.

22 55.

23 Unbeknownst to the Oregon Board, OFI either did not have or did not follow industry-
 24 standard risk management policies for the Core Bond Fund, thus allowing its managers to take
 25 unnecessary and reckless risks. Further, as discussed in more detail below, OFI intentionally
 26 ignored internal risk management guidelines in order to position the Core Bond Fund to achieve

1 continued to decline precipitously in the latter half of 2008, and the Core Bond Fund realized
 2 substantial declines in its portfolio value as a result of the leverage in these speculative swap
 3 positions.

4 58.

5 The Core Bond Fund also purchased and sold credit default swaps. Credit default swaps
 6 are essentially insurance contracts that insure against the default on debt securities such as
 7 corporate bonds. In a credit default swap, two parties enter into a private contract whereby the
 8 buyer of the protection agrees to pay the seller premiums over a set period of time, which is
 9 typically four or five years. In exchange, the seller agrees to pay the buyer in the event a
 10 particular pre-defined credit event occurs, such as a default on the underlying security. In this
 11 manner, a credit default swap functions as an insurance policy. The buyer of credit protection
 12 can use the swap to hedge an existing position in a particular security. The writer of credit
 13 protection receives a regular insurance premium, in the hope of not having to pay an insurance
 14 "claim."

15 59.

16 In 2008, the Core Bond Fund entered into a significant number of credit default swaps,
 17 but not as a buyer of credit protection to hedge existing fund holdings. Instead, it became a
 18 significant seller of credit protection, essentially writing insurance on corporate bonds. This had
 19 the effect of adding leverage, because the Fund was in a position to realize the full impact of
 20 price declines in the bonds it was insuring, even though it did not have actual ownership of those
 21 bonds and received a small amount of income relative to the risk to the Fund.

22 60.

23 The Core Bond Fund not only engaged in risky selling of protection on corporate bonds,
 24 it sometimes actually sold protection on the issuers of bonds that it also owned in the Fund,
 25 thereby doubling or tripling its bet with respect to the credit-worthiness of those issuers. For
 26 example, as of June 30, 2008, the Core Bond Fund held bonds issued by AIG, Lehman Brothers,

1 Merrill Lynch, Citigroup, General Motors, and Ford Motors. At the same time, the Core Bond
 2 Fund was selling protection, credit default swaps, on bonds by these very issuers. In other
 3 words, if one of the issuers, like Lehman Brothers, went into default on its bonds, not only would
 4 the Core Bond Fund lose value in the bonds of Lehman Brothers that it currently held, it would
 5 also be responsible for making payments to other holders of Lehman Brothers' bonds who had
 6 purchased the credit protection sold by the fund. By selling credit protection on these issuers, the
 7 managers were gambling that no credit events requiring a payment would occur in these issuers
 8 prior to the expiration dates of the swaps, and that the fund would pocket the fixed premium
 9 being paid by the protection buyer. By selling protection in names that the portfolio was long,
 10 the managers risked a loss both of bond value and of a payout on the credit default swap. In this
 11 manner, these credit default swaps constituted highly speculative bets on these issuers, and
 12 multiplied the Core Bond Fund's risk of loss in these corporate issuers.

13 61.

14 This practice of writing credit protection was not a minor activity for the Core Bond
 15 Fund. By August 2008, it has been estimated that the fund's net notional exposure to credit
 16 default swaps was over \$850 million. In other words, the \$2 billion fund had additional exposure
 17 to the credit performance of an additional \$850 million in corporate credits. In this manner, the
 18 credit default swap activity added significant leverage, and greatly increased fund holders'
 19 exposure to loss.

20 62.

21 OFI has indicated that in 2008 the managers of the Core Bond Fund stopped adding to the
 22 Fund's position or exposure to Residential Mortgage-Backed Securities ("RMBS"), and instead
 23 began to increase its exposure to corporate bonds. However, the managers failed to disclose that
 24 it was heavily weighting this corporate bond allocation to the financial sector. Many of these
 25 same financial companies themselves were heavily exposed to the RMBS market, so by
 26 overweighting its position in financial sector bonds, the Core Bond Fund actually increased its

1 overall exposure to problems in the housing sector, as well as to all the other problems plaguing
 2 the financial sector, which were well-known at the time. This over-concentration in RMBS and
 3 financial sector bonds ultimately resulted in huge losses to the Core Bond Fund

4 **3. The Core Bond Fund increases its risk, makes hedge fund-like bets,**
 5 **and exceeds its own ever-changing internal risk controls.**

6 63.

7 In the first half of 2008, the Core Bond Fund began to add significantly to its exposure to
 8 the CMBS sector. As previously explained, it did this by an ever-escalating position in total
 9 return and credit default swaps on various CMBS indices. As the “spread” between CMBS and
 10 Treasury bonds widened steadily in the first half of 2008, the managers quickly and dramatically
 11 ramped up the fund’s exposure to this sector through the use of total return and credit default
 12 swaps, increasing the already excessive risk. As spreads continued to widen throughout the year,
 13 the managers made a large bet on the “opportunity of a lifetime” without regard to the risk to
 14 investors or their own internal risk factors. They continually escalated the size of the bet that
 15 spreads would narrow by continually adding to the Fund’s already excessively risky position in
 16 CMBS total return swaps.

17 64.

18 Between April 30, 2007, and July 31, 2008, the Core Bond Fund increased its notional
 19 exposure to CMBS total return swaps from approximately \$15 million to \$900 million, an
 20 increase of 6,000 percent. In other words, as of the end of July 2008, the approximately \$2
 21 billion Core Bond Fund was exposed to the performance of an additional \$900 million in assets
 22 that it did not actually own. In this manner, the one-sided and speculative bet on the direction of
 23 CMBS spreads added leverage and grossly increased the fund holders’ exposure to the risk of
 24 loss.

65.

On October 23, 2008, OFI made a presentation to the Oregon Board which included a discussion of the Core Bond Fund. At the presentation were Kevin Dachille and Dan Herrmann of OFI. Kevin Dachille is an investment director of OFI who works with the fixed income teams articulating their investment policy, strategy and performance to existing and prospective institutional clients. During his presentation to the Board, Kevin Dachille explained the situation in 2008 as follows:

MR. DACHILLE: ... Now, this is a trying time, because every time we bought something, it went down in price. And we'd buy it again, and it would go down in price. And we'd buy it again, and it would go down in price. To the point where right at the eve of the Bear Stearns episode in mid-March, we were, for all intents and purposes, all in. Ninety-five percent of our risk budget was -- we still have 95 percent of our risk budget, so the last six months we have not added to aggregate risk, but rather just held our position or stayed the course.

MR. EDWARDS: So why would you keep buying? I mean, hindsight is always 20/20. But what was it forcing you to --

MR. DACHILLE: Valuations got more attractive.

MR. DACHILLE: And so we were getting greedy. That's how we -- when the value increases --

-- we back up the truck.

MR. EDWARDS: Well, let me ask you, is this abnormal? Has the fund done this before where you've kept the steady buying spree --

MR. DACHILLE: Never like this.

MR. EDWARDS: -- and took a risk budget --

MR. DACHILLE: Never like this.

MR. EDWARDS: -- up like that?

MR. DACHILLE: No. We've never gotten close to our maximum.

(Emphasis added).

1 66.

2 In other words, by April 2008, the Core Bond Fund had placed such a large bet that for
3 the purposes of assessing its risk, it was in OFI's own words "all in."

4 67.

5 In addition to fully expending its risk budget, in April 2008, the Core Bond Fund's
6 internal risk profile indicated that it was positioned to achieve inordinately high excess returns
7 compared to its benchmark. These potentially inordinate returns created correspondingly
8 inordinate risks. The so-called Core Plus strategy that was used to manage the Core Bond Fund,
9 set an *ex ante* target for excess return over the benchmark of between 100 to 125 basis points, or
10 1 percent to 1.25 percent. However, internal documents indicate that as early as April 1, 2008,
11 the composition of the Core Bond Fund was such that prospective excess return over the
12 benchmark was already forecast to be 1,058 basis points or 10.58 percent, well in excess of
13 OFI's own internal guideline, and an extraordinary level of risk and deviation from the
14 benchmark index. An excess return of this size, and the risk required to achieve it, was totally
15 inappropriate for a fund labeled as a "core" bond fund and was particularly inappropriate for the
16 college savings plan portfolios. Moreover, OFI never disclosed to the Oregon Board that the
17 Core Bond Fund was taking enormous risks in an effort to generate additional returns of almost
18 10 times the excess returns it represented to the investors.

19 68.

20 Navin Sharma is OFI's Director of Risk Management. His role is to prevent OFI
21 portfolio managers from taking too much risk or exceeding internal risk management guidelines.
22 On April 1, 2008, Sharma informed Ben Gord, a portfolio manager who helped manage the Core
23 Bond Fund, that the team had been exceeding the "pre-set limits" set forth in the firm's risk
24 models. In response to Mr. Sharma's warning, Gord told his team that it "was obvious from the
25 start" that Sharma did not "understand[] why he's been asked to do what he does." Rather than
26 heed the warning to control risk and change practices, Gord informed Sharma that "maybe the

1 guidelines have actually done their job, that we're taking big bets and now he knows about it[.]"

2 (Emphasis added). Despite the stated warnings of its risk managers, OFI continued to make bets

3 throughout 2008 that were even bigger than the "big bets" it made in April that caused it to

4 exceed its risk controls.

5 69.

6 The following week, April 8, 2008, the Core Bond Fund's internal risk profile documents

7 again confirm that the managers had exceeded the Fund's risk budget. According to the

8 documents, it had expended over 121 percent of its risk budget based upon the metric used the

9 previous week. Indeed, in his October 23, 2008, presentation to the Oregon Board, Mr. Dachille

10 stated that for the Core Bond Fund a tracking error of 200 basis points, which would be a fully

11 expended risk budget of 100 percent, was a "hard maximum." Nonetheless, on April 8, 2008,

12 the tracking error was 242 basis points, a 21 percent overage in the risk budget.

13 70.

14 Apparently unwilling to lower the risk profile to the required parameters, and likely

15 hoping to achieve outsized returns, OFI changed the metric used to calculate the amount of risk

16 budget remaining. Accordingly, while the old metric showed the Fund exceeding its risk budget

17 by 21 percent, using the new metric starting on April 2008, OFI's internal documents showed a

18 risk budget remaining of 31 percent. This more favorable metric would be used by OFI for the

19 rest of 2008 in calculating the risk budget remaining. The previous metric was disregarded even

20 though it reached as high as 145 percent by the end of 2008. OFI failed to disclose to the Oregon

21 Board that it had abandoned the old metric used to assess risk.

22 71.

23 As evidenced by the above, OFI repeatedly exceeded the Core Bond Fund's risk budget

24 in an effort to generate outsized returns. OFI failed to disclose that the Core Bond Fund was

25 engaging in risky hedge fund-type activities and was regularly exceeding its internal controls. In

1 addition, OFI failed to disclose that throughout 2008, the Core Bond Fund regularly exceeded its
2 stated tracking error range and excess return guidelines.

3 **D. OFI breaches its duties as an investment adviser to the Oregon Plan by**
4 **failing to disclose the risk and continuing to recommend the now high-risk**
5 **Core Bond Fund in the Oregon Plan portfolios.**

6 72.

7 From June 2004 through October 2008, OFI made quarterly reports to the Oregon Board.
8 At no time during this period did OFI indicate any significant issues, events or changes in the
9 Core Bond Fund.

10 73.

11 Further, with one exception, OFI never recommended changes in portfolio allocations.
12 The one exception occurred in April 2008 when the adviser-sold option within the Oregon Plan
13 underwent a number of changes in portfolio allocations in underlying funds purportedly for the
14 purpose of seeking higher returns.

15 **E. OFI reveals that it was aware of the risks being taken by Core Bond, tries to**
16 **convince Oregon that it should stay in Core Bond but also admits, for the**
17 **first time, that Core Bond was too aggressive for some portfolios and that it**
18 **had never fulfilled its duties under the PMA to evaluate portfolios and**
19 **underlying funds.**

20 74.

21 As of the October 23, 2008, Board meeting, the Core Bond Fund was down over
22 11 percent for the third quarter alone and over 12 percent for the year-to-date. When asked by
23 Treasurer Randall Edwards to put the loss in layman's terms, Kevin Dachille replied, "mind-
24 numbing."

25 75.

26 In the face of these dismal performance numbers, Mr. Dachille nonetheless offered the
27 following hope:

Our story isn't one of despair, however. As I mentioned, the bond
market has been dealing with this for about a year and a half, and
some of the more recent -- and we'll talk about this in a little bit,
but some of the more recent policy initiatives, not just in the

1 United States, but worldwide, give us a great deal of hope. And so
 2 it is one of those messages that yes, things are pretty bad now.
 3 We're under tremendous stress. The cavalry isn't just coming, it's
 4 on its way.

5 * * *

6 And what I want to talk about specifically with regard to this
 7 underperformance is what bond guys like me refer to as permanent
 8 impairment versus recoverable losses, because far and away, the
 9 underperformance that you're seeing right here is in recoverable --
 10 highly recoverable losses.

11 76.

12 In his presentation, Mr. Dachille presented a chart, attached as Exhibit 2, that shows the
 13 portfolio performance attribution of the various sectors in which the Core Bond Fund invests. In
 14 other words, it shows the sectors that contributed the most to the Core Bond Fund's gains or
 15 losses. This chart reveals that the greatest contributor to the Fund's losses thus far in 2008 were
 16 its CMBS holdings, which contributed 451 basis points to the losses. Nonetheless, Mr. Dachille
 17 stated that the Core Bond Fund was well positioned for a significant recovery in the CMBS
 18 sector:

19 But more importantly, were spreads to come back to where they
 20 rallied to at the end of May -- and by no means would this be a
 21 normal environment, just to come back into some form of
 22 reasonableness -- these have well double digit return potentials that
 23 we're looking at here.

24 So to us, this is why we fell in love with this asset.

25 77.

26 The second largest contributor to the Core Bond Fund's poor performance was the
 27 RMBS sector, contributing 412 basis points to the Fund's losses for the first three quarters of
 28 2008. With regard to that sector, Mr. Dachille stated:

29 They're well into the double digits for just the carry trade if you
 30 will, of moving into non-agencies. And the potential total rate of
 31 return on yields coming back to some sort of normal range -- and
 32 by that, I mean just where they were at the end of May, not back to
 33 where their historical averages are. -- believe it or not, puts the
 34 total return potential on these close to 30 percent.

78.

In an acknowledgment of OFI's failure to fulfill its responsibilities to the Oregon Plan with respect to portfolio allocations and risks of underlying funds, Mr. Dachille revealed that OFI, for the first time since it had been hired as the Oregon Plan's investment adviser was going to undertake a review of the portfolios, the underlying funds, and their respective risks, stating:

And one -- and one thing that we've directed the consultant to do with this is we're going to look at the risk. We're going to look at where we need to be on how much risk we want to take in all the portfolios.

The point about what fund is proper for what age band, that's going to be looked at very closely. I mean, core bond may be perfectly fine for the first two portfolios, and not for the last two.

You know, that's clearly been the one fund that's been the most egregious. But, again, we're going to look at every single fund that Oppenheimer has and say, okay, where do we want be on the risk spectrum, in what portfolio. So we're going to look at them portfolio by portfolio, not just where we're going to pick three equity funds and say 20 percent here, 10 percent here. We're going to look at each portfolio separately and then build the portfolio from there. That's our new strategy. (Emphasis added).

79.

In other words, OFI stated that it had a "new strategy" for building portfolios with investments that were matched to the portfolios' risk profiles despite the fact that it had this legal duty from the outset of its contractual and fiduciary adviser relationship to the Oregon Trust.

80.

As of the October 23, 2008 Oregon Board meeting and before, OFI knew the following:

- (a) The Core Bond Fund had exceeded its risk budget since April 2008;
- (b) The Core Bond Fund had incurred significant losses as result of taking excessive risks such as in CMBS, Corporate Financial Bonds, and RMBS.
- (c) The Core Bond Fund was positioned such that it might achieve significant excess returns over its benchmark or be exposed to significant losses;
- (d) That the losses year-to-date in the Core Bond Fund of 12 percent were "mind-numbing;"

- (e) That the Core Bond Fund was being operated more as a hedge fund than a Core Bond Fund;
- (f) That the Core Bond Fund was using leverage that amplified the risks;
- (g) That the Oregon Plan and the Oregon Board were concerned about preventing any further losses; and,
- (h) That the Oregon Board was relying upon OFI's knowledge of the Core Bond Fund and its expertise as an investment adviser.

81.

Nonetheless, OFI never recommended to the Oregon Board that the Oregon Plan pull its assets from the Core Bond Fund despite the fact that the Oregon Plan was exposed to significant additional risk by remaining in the Core Bond Fund going forward. OFI failed to recommend an appropriate change in the bond fund because it was motivated, not in the best interests of the Oregon Plan, but rather to maximize the management fees of OFI as well as to prevent a mass exodus of investments by the Oregon College Savings Plan and other college savings plans from the Core Bond Fund and other Oppenheimer Funds investments. OFI also did not have an appropriate core bond fund to offer to the Oregon Plan.

F. OFI's statement at the Oregon Board January 22, 2009 board meeting further highlights the hedge fund-type risks taken by OFI with the Core Bond Fund and the failure of OFI to make recommendations in the best interest of the Oregon Plan.

82.

In his presentation to the Oregon Board on January 22, 2009, OFI's Chief Investment Officer, Kurt Wolfgruber, stated that a large part of the Core Bond Funds' poor performance was due to the fact that "interest rates spreads widened to levels never seen before." He went on to explain the issue as follows:

First, the spreads. Spreads between the yields on CMBS, or Commercial Mortgage Backed Securities and Treasury Bonds, widen to unforeseeable levels. Between 1988 and 2007, historical spreads for these types of securities averaged less than 1 percent [or 100 basis points]. Indeed, actually a move of five basis points . . . was deemed to be a lot. At the start of 2008, it [CMBS spread]

1 stood at 1.75 percent and climbed to 4.75 percent during the Bear
2 Stearns crisis. On November 21st, that spread peaked at 15.6
3 percent, so nearly 16 times than what we would view as the normal
4 spread level for those instruments.

83.

5 Mr. Wolfgruber was claiming that what occurred in November 2008 was unforeseeable,
6 i.e., that the possibility that spreads could widen so dramatically was unprecedented.

7 Mr. Wolfgruber wanted the Oregon Board to believe that OFI could never have anticipated the
8 widening of CMBS spreads. In fact, the result was predictable and known to OFI in light of its
9 own risk tracking data.

84.

11 Mr. Wolfgruber's statements failed to describe the unprecedented widening that had
12 already occurred in CMBS spreads. Instead, the statements highlighted the "all in" mentality
13 that caused the Core Bond Fund to be run more as a hedge fund than a core bond fund.
14 Mr. Wolfgruber was correct that historically spreads for CMBS securities averaged less than
15 1 percent or 100 basis points. In fact, between January 2004 and June 2007, CMBS spreads were
16 consistently between 25 to 30 basis points. However, by November 2007, CMBS spreads had
17 more than doubled to 70 basis points. As Mr. Wolfgruber noted, a move of even 5 basis points
18 was "deemed to be a lot." This was a move of 40 basis points, or eight times more than a
19 movement that he deemed to be significant.

85.

21 The unprecedented widening of CMBS spreads was only beginning. By January 2008,
22 CMBS spreads more than doubled once again to 152 basis points, or in excess of 500 percent of
23 CMBS spreads just six months earlier. Within the next five or six weeks, by February 15, 2008,
24 spreads had once again doubled to 308 basis points. Thus, in just eight months, spreads had
25 increased over 1,000 percent. Given this prior and already unprecedented widening of CMBS
26 spreads, the Core Bond Fund managers could not reasonably rely upon historical patterns or the

1 theoretical premise of reversion. The decision of OFI to continue to use leverage to increase the
 2 Core Bond Fund's exposure to CMBS until it was "all in," was unreasonable and reckless for a
 3 bond fund that OFI used in connection with college savings plans. It also was done in total
 4 disregard of OFI's own risk metrics and controls.

5 86.

6 Unfortunately, OFI's investment managers for the Core Bond Fund continued their hedge
 7 fund bets. After losing a "mind numbing" 11 percent in the third quarter of 2008, by the time
 8 Mr. Dachille appeared before the Oregon Board on October 23, 2008, CMBS spreads had once
 9 again doubled from February 2008, and were then at 676 basis points, 10 times the spread just
 10 one year earlier and 20 times the spread average from 2004 to 2007. In other words, as of the
 11 October 23, 2008, Board meeting, OFI knew that it had repeatedly been wrong in its bets on
 12 CMBS spreads, had already lost 11 percent in just the third quarter alone, was facing CMBS
 13 spreads that defied any historical precedent, and was acting without regard to its own risk metrics
 14 or risk controls.

15 87.

16 Nonetheless, at the October 2008 board meeting, OFI never advised the Oregon Board of
 17 the huge risks being taken by the Core Bond Fund or of the fact that the Core Bond Fund
 18 managers were continuing to place hedge fund-type bets. Instead, OFI reassured the Oregon
 19 Board that "the cavalry is on its way." OFI spoke only about the potential upside of the CMBS
 20 position held by the Core Bond Fund, never advising the Oregon Board that it had placed a bet
 21 that could and did result in a 26 percent loss in the fourth quarter alone. As the Oregon Plan's
 22 Program Manager, OFI owed the Oregon Plan a duty to disclose the highly risky position in
 23 which the Core Bond Fund found itself in October 2008.

1 88.

2 While the Core Bond Fund lost a total of nearly 36% for the year 2008, its benchmark
3 index was actually up 5% for the year. Through March 2009, the Core Bond Fund lost another
4 10% while the index remained virtually even.

5 89.

6 Prior to the plan's investment in the Core Bond Fund, OFI employed a management team
7 in Boston headed by Angelo Manioudakis to oversee the Core Bond Funds' investments. In the
8 wake of the devastating losses in the Core Bond Fund, OFI pulled the Core Bond Fund
9 management team from Boston back to its New York office. Manioudakis and all of his top
10 level managers have since left OFI and, for the first time, OFI has hired a Chief Risk Officer.

11 90.

12 Since leaving OFI, Manioudakis has stated that he never had any knowledge that the
13 Core Bond Fund was being used by OFI to invest money from the Oregon College Savings Plan.

14 **G. The Oregon Board terminates the Core Bond Fund (and the Limited Term**
15 **Government Bond Fund).**

16 91.

17 Despite OFI's assurances at the October 2008 Board Meeting, the Oregon Board engaged
18 an independent firm to review the Oregon Plan portfolios after that meeting. As the result of this
19 review, the Oregon Board decided at the January 22, 2009 meeting to terminate the Oregon
20 Plan's participation in the Core Bond Fund and the Limited Term Government Bond Fund as
21 soon as possible. It finalized that plan at a follow-up meeting of the Oregon Board on February
22 26, 2009. The Core Bond Fund and Limited Term Government Funds were fully liquidated and
23 exchanged into index funds on or by March 27, 2009.

H. Defendants' Continued Recommendation and Sale of the Core Bond Fund to the Trust Portfolios Violated the PMA and The Adopted Investment Policy.

1. OFI breached its duties under the PMA.

92.

As alleged at length above, OFI had a number of contractual duties including but not limited to "determining that the investment objectives, policies, and practices of the Underlying Funds in which the Trusts assets are invested [e.g., the Core Bond Fund] are consistent with the Board's Investment Policy and applicable law." PMA Section 5.2(b). It also had the continuing duty to "at least annually, review the Investment Portfolios of the OCS Plan" and "shall from time to time propose . . . the modification of the Underlying Funds [e.g., the Core Bond Fund] in which certain existing Investment Portfolios invest . . . all in accordance with the applicable Investment Policy and subject to Board approval." PMA Section 5.3. It had the further duty to inform the Oregon Board of material changes that impacted the Underlying Fund and the Oregon Plan. PMA Sections 4.1; 9.1(b).

93.

At least as of early 2008, OFI violated the PMA by, among other things:

- (a) failing to report to the Board that the investment objectives, policies, and practices of the Core Bond Fund were no longer consistent with the Board's Investment Policy;
- (b) continuing to recommend and selling the Core Bond Fund to each of the Portfolios in violation of the Board's Investment Policy; and,
- (c) failing to recommend that the Core Bond Fund be removed from each of the Portfolios because that Fund was in violation of the Board's Investment Policy.

These violations occurred across each of the Portfolios in the Plan as alleged below.

2. **OFI breached the PMA by recommending the Core Bond Fund for the Ultra Conservative/In College or the Conservative/1-3 Years to College Portfolios.**

94.

The Investment Policy provided that the Ultra Conservative/In College and Conservative/1-3 Years to College Portfolios had the primary investment objectives of “protection of principal” and “income.” OFI was supposed to manage these portfolios by “preserv[ing] capital” and seeking “minimal income growth by investing primarily in bond Underlying Funds to maintain stability.”

95.

OFI, however, continued to recommend, use and sell the high risk Core Bond Fund in the Ultra Conservative/In College and Conservative/1-3 Years to College Portfolios. OFI generally recommended that Oregon have and, as a result, Oregon generally had 20 percent of the Ultra Conservative/In College Portfolio and 35 percent of the Conservative/1-3 Years to College Portfolio invested in the Core Bond Fund. At least as of early 2008, the Core Bond Fund did not meet the Investment Policy as to any portfolio that had “principal protection” and “minimal income growth” as its objectives. Indeed, Mr. Manioudakis, the former manager of the Core Bond Fund, has admitted that the Core Bond Fund was not designed to protect principal.

96.

At least as of early 2008 and continuing throughout the year, the Core Bond Fund did not meet the Investment Policy as to the Ultra Conservative/In College and Conservative/1-3 Years to College Portfolios for many of the reasons alleged above, including but not limited to the following:

- (a) The Core Bond Fund took hedge fund-like risks that exposed it to substantial swings in the market;
- (b) Those who invest for children in college or just a couple of years from college cannot afford to take hedge fund-like risks because they will have an immediate or imminent need to use their money;

(c) The Core Bond Fund sought much higher returns and took much higher risk through perceived "once-in-a-lifetime" opportunities in which OFI recommended that those investing for college "back up the truck" and make "all in" bets that were not appropriate for a portfolio designed to protect principal and obtain minimal income;

(d) The Core Bond Fund had substantial investments in derivatives, swaps, sub-prime mortgage-backed securities and other similar investments that, particularly taken together, were not designed to preserve principal or seek minimal income growth;

(e) The Core Bond Fund used leverage, exposing investors to the risk of suffering losses greater than just the money invested in the portfolio; such leverage was inappropriate for those who wanted to preserve principal for the immediate costs of education;

(f) At least as of early 2008, the Core Bond Fund, by OFI's own admission, was only appropriate for those investors with a long term investment horizon. By definition, the Ultra Conservative/In College and Conservative/1-3 Years to College Portfolios were intended for people who needed money for college immediately or in the next 1-3 years.

3. The Core Bond Fund was not consistent with the investment objectives of the remaining portfolios.

97.

The Core Bond Fund also was not appropriate for the Balanced/4-6 Years to College, Moderate/7-9 Years to College or even the Aggressive/10+ Years to College Portfolios.

98.

The Balanced/4-6 Years to College and Moderate/7-9 Years to College Portfolios had investment objectives of "capital appreciation and income" through "moderate growth" with the Balanced/4-6 Years to College Portfolio slightly weighted towards bond funds and the Moderate/7-9 Years to College Portfolio slightly weighted towards equity funds. The funds were supposed to have a "combination of conservative and aggressive investments." The Balanced/4-6 Years to College Portfolio, however, generally had 30 percent of its portfolio in the Core Bond Fund and the Moderate/7-9 Years to College Portfolio generally had 20 percent of its portfolio in the Core Bond Fund. At least as of early 2008, there were two significant problems with these investments in the Core Bond Fund. First, the Core Bond Fund itself did not seek moderate growth but took hedge fund-like risks and sought hedge fund-like returns. Second, OFI used the

Core Bond Fund in the Balanced/4-6 Years to College and Moderate/7-9 Years to College Portfolios as one of the purportedly “conservative investments” to balance out the greater risks, and associated volatility, taken in the more aggressive equity investments. However, the effect of the Core Bond Fund was not to make the portfolio risks more moderate through the addition of a conservative investment, but to make the portfolios much more aggressive through the addition of a higher-risk investment.

99.

At least as of early 2008, the Core Bond Fund was also an improper investment for even the Aggressive/10+ Years to College Portfolio. The Aggressive Portfolio was designed to seek capital appreciation. However, the Investment Policy provided that it also would invest “[a] percentage of assets” in bond funds “to provide some protection from equity volatility.” The Aggressive/10+ Years to College Portfolio generally had 10 percent of its portfolio in the Core Bond Fund. The effect of this investment was not to provide protection from “equity volatility.” Indeed, the investment in the Core Bond Fund in 2008 substantially increased the volatility of the Aggressive/10+ Years to College Portfolio and subjected that portfolio to much higher risks.

4. Defendants breached the “Representations, Warranties and Covenants” in the PMA.

100.

OFI and OFDI also made a number of representations, warranties and covenants, alleged in greater detail above, that provided, among other things, that the “Plan Marketing Materials (excluding information provided by the Board) shall not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements not misleading.” PMA Sections 13.1(h); 13.2(h). OFI and OFDI further certified that the Plan Description, which was also included within the Plan Marketing Materials, was complete, accurate, and did not include any material misrepresentations or omissions. PMA Sections 3.2(b)(ii), (iii). OFI also had a

1 duty to update the Plan description if there were material developments arising after the Plan
 2 Description was initially prepared. PMA Section 9.1(b)

3 101.

4 As of early 2008, the Plan Description and Plan Participation Agreement prepared by OFI
 5 and OFDI, which was part of the Plan Marketing Materials sent to all participants for the direct
 6 and the advisor-sold plans, provided the following:

- 7 (a) For the Years to College Portfolio, "[i]nvestments are automatically moved to
 8 more conservative Portfolios that seek to preserve capital as the expected time for
 9 disbursement approaches."
 10 (b) The Ultra-Conservative/In-College Portfolio invests in fixed income and money
 11 market investments "in order seek the Portfolio's objectives of income and
 12 protection of principal" and seeks "preservation of capital with minimal growth
 13 by investing primarily in fixed income mutual funds and a money market fund to
 14 maintain stability."
 15 (c) The Conservative/1-3 Years College Portfolio invests "primarily in fixed income
 16 and money market investments in order to seek the Portfolio's objectives of
 17 income and protection of principal" and "seeks preservation of capital with
 18 minimal growth[.]"
 19 (d) The Balanced/4-6 Years to College Portfolio "seeks moderate growth" by slightly
 20 weighting investments towards fixed income funds, such as the Core Bond Fund.
 21 (e) The Moderate/7-9 Years to College Portfolio also "seeks moderate growth" by
 22 including fixed income funds, such as the Core Bond Fund.
 23 (f) Even the Aggressive/10-plus Years to College Portfolio used "fixed income
 24 mutual funds," like the Core Bond Fund "to provide some protection against
 25 equity volatility."
 26

Each of the statements contained above was either a misrepresentation or contained an untrue or
 material omission of fact because those getting closer to college did not move into a more
 conservative policy and the Core Bond Fund did not provide and was not designed to provide
 protection of principal. It also did not seek preservation of capital, minimal growth, moderate
 growth or provide some protection against equity volatility because Core Bond Fund, instead,
 was operated as a high-risk fund that sought speculative returns by taking very aggressive risks.

I. Defendants Acted in Concert and Knowingly Aided and Assisted Each Other's Tortious Conduct.

102.

Defendants acted in concert and knowingly aided and assisted each other's breach of duty to the Oregon Trust in connection with the sale of the securities at issue and the provision of services to the Oregon Trust. Each Defendant is therefore responsible for all actions, statements, and omissions of the other Defendants. Defendants are jointly liable for Plaintiff's damages.

J. OFDI Is Independently and Jointly and Severally Liable With the Other Defendants.

103.

OFI and OFI Private recommended and sold the Core Bond Fund securities to the Oregon Board. OFI and OFI Private marketed the sale of the Core Bond Fund through their preparation of the Trust marketing materials. Those Defendants breached the PMA and violated the law with the participation and assistance of defendant OFDI, which distributed the securities to the Oregon Trust. OFDI was a party to the PMA and facilitated the others in the sale of and sold Plaintiff securities in violation of the PMA and Oregon law.

K. The Oregon Trust's Damages

104.

Subject to additional proof at trial, the Oregon Trust suffered at least the following damages to each of the Portfolios:

Oregon Trust Portfolio Damages

Ultra Conservative/In-College:	\$1.73 million
Conservative/1-3 Years to College:	\$9.21 million
Balanced/4-6 Years to College:	\$8.97 million
Moderate/7-9 Years to College:	\$8.15 million
Aggressive/10+ Years to College:	\$8.21 million

1 The total Portfolio damages are in excess of \$36.2 million.

2 **VI. CLAIMS FOR RELIEF**

3 **FIRST CLAIM FOR RELIEF**
4 **VIOLATION OF OREGON SECURITIES LAW, ORS 59.137**

5 105.

6 Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs
7 as if fully alleged herein.

8 106.

9 Defendants sold the Oregon Trust securities and shares in the Core Bond Fund in
10 violation of ORS 59.137 by:

11 (a) employing a device, scheme and/or artifice to defraud;

12 (b) by engaging in acts, practices and a course of business that operated as a fraud or
13 deceit upon Plaintiff; and/or

14 (c) by making untrue statements of material fact and omitting to state material facts
15 necessary in order to make the statements made, in light of the circumstances
under which they were made, not misleading, as alleged herein.

16 107.

17 Defendants violated and/or materially aided in violations of ORS 59.135(1), (2), and/or
18 (3) in connection with the sale of the Core Bond Fund shares to the Oregon Trust.

19 108.

20 In addition, in advising Plaintiff regarding the securities and portfolios of securities at
21 issue, Defendants made material misrepresentations and omissions by virtue of their failure to
22 exercise reasonable care or competence in communicating information to Plaintiff.

23 109.

24 Defendants' conduct created a foreseeable risk that Plaintiff would invest in securities
25 and portfolios of securities and would sustain losses as a result thereof.

110.

As a direct result, Plaintiff invested in the securities and portfolios of securities at issue.

111.

OFI directly or indirectly controlled OFI Private and OFDI. OFI is therefore jointly and severally liable to the same extent as OFI Private as OFDI pursuant to ORS 59.137(2).

112.

Defendants' violations of ORS 59.135 caused the Oregon Trust actual damages in excess of \$36.2 million.

113.

Pursuant to ORS 59.137(1) Plaintiff is entitled to recover from Defendants, jointly and severally, (1) damages in an amount to be proven at trial, which is in excess of \$36.2 million, (2) the amount of fees or other remuneration paid to Defendants, and (3) interest as provided in ORS 59.137(1).

114.

Pursuant to ORS 59.137(4), Plaintiff is entitled to an award of its costs and reasonable attorney fees.

**SECOND CLAIM FOR RELIEF
VIOLATION OF OREGON SECURITIES LAW, ORS 59.115(1)(b) AND 59.135**

115.

Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs as if fully alleged herein.

116.

Defendants sold and/or successfully solicited the sale of the Core Bond Fund shares to the Oregon Trust.

117.

Defendants sold and/or successfully solicited the sale of these securities in violation of
ORS 59.115(1)(b) and 59.135 by:

(a) employing a device, scheme and/or artifice to defraud;

(b) by engaging in acts, practices and a course of business that operated as a fraud or
deceit upon Plaintiff; and/or

(c) by making untrue statements of material fact and omitting to state material facts
necessary in order to make the statements made, in light of the circumstances
under which they were made, not misleading, as alleged herein.

118.

Plaintiff did not know of the untruth of Defendants' representations and was unaware of
Defendants' omissions.

119.

Defendants each participated and materially aided in the sale of securities at issue, and
are therefore jointly and severally liable for the violations of ORS 59.115 pursuant to
ORS 59.115(3).

120.

OFI directly or indirectly controlled OFI Private and OFDI. OFI is therefore jointly and
severally liable to the same extent as OFI Private and OFDI pursuant to ORS 59.115(3).

121.

Pursuant to ORS 59.115(2)(a), Plaintiff is entitled to recover from Defendants, jointly
and severally, rescissory damages of the consideration paid for the securities, plus interest
from the date of the purchase of the securities. Alternatively, pursuant to ORS 59.115(2)(b),
Plaintiff is entitled to recover from Defendants, jointly and severally, rescissory damages less
any amounts received for the securities plus interest in an amount to be proven at trial, which
amount is in excess of \$36.2 million.

122.

Pursuant to ORS 59.115(10), Plaintiff is entitled to an award of its costs and reasonable attorney fees.

**THIRD CLAIM FOR RELIEF
BREACH OF CONTRACT
(Program Management Agreement)**

123.

Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs as if fully alleged herein.

124.

The Oregon Board, on behalf of the Oregon Trust, entered into the PMA with Defendants OFI and OFDI. OFI Private may also be a party to that contract.

125.

Pursuant to the PMA, Defendants made a number of certifications, representations and warranties, and assumed numerous contractual duties as detailed in paragraphs 33-38, among others, above.

126.

Further, Defendants owed Plaintiff the duty of good faith and fair dealing implied in every contract. Plaintiff had a reasonable expectation that any materials prepared by Defendants pursuant to the PMA would not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein not misleading in light of the circumstances under which they were made. Plaintiff also had a reasonable expectation that any information provided by Defendants pursuant to the PMA would not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made not misleading in light of the circumstances under which they were made.

1 127.

2 Defendants breached the above-described contractual duties, representations, warranties
3 and covenants as alleged herein.

4 128.

5 As a direct result of Defendants' breach of contract, Plaintiff has been injured in an actual
6 amount to be proven at trial, which is in excess of \$36.2 million. Plaintiff is entitled to an award
7 of prejudgment interest on this claim.

8 129.

9 Plaintiff is entitled to its attorney fees and costs under section 12.1 of the PMA.

10 **FOURTH CLAIM FOR RELIEF**
11 **BREACH OF FIDUCIARY DUTY**

12 130.

13 Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs
14 as if fully alleged herein.

15 131.

16 As Plaintiff's investment advisers and broker-dealer, Defendants owed fiduciary duties to
17 Plaintiff. Defendants owed Plaintiff the fiduciary duties of care, loyalty, honesty, and full and
18 fair disclosure. Defendants also owed Plaintiff the duty to comply with all applicable standards
19 of care, including applicable codes of professional conduct.

20 132.

21 Defendants breached the fiduciary duties they owed to Plaintiff in the course of advising
22 Plaintiff regarding the Core Bond Fund. In advising Plaintiff regarding the Core Bond Fund,
23 Defendants made material misrepresentations and omissions by virtue of their failure to exercise
24 reasonable care or competence in communicating information to Plaintiff.

1 133.

2 Defendants' conduct created a foreseeable risk that Plaintiff would invest in the Core
3 Bond Fund and would sustain losses as a result thereof.

4 134.

5 As a direct result of Defendants' breaches of fiduciary duties owed to Plaintiff, Plaintiff
6 invested, continued to invest, and did not terminate its participation in the Core Bond Fund.

7 135.

8 As a direct result of Defendants' breaches of fiduciary duties owed to Plaintiff, Plaintiff
9 has been injured in an actual amount to be proven at trial, which is in excess of \$36.2 million.
10 Plaintiff is entitled to an award of prejudgment interest on this claim.

11 **FIFTH CLAIM FOR RELIEF**
12 **NEGLIGENCE**

13 136.

14 Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs
15 as if fully alleged herein.

16 137.

17 As Plaintiff's investment advisers and broker-dealer, Defendants had a duty to exercise
18 reasonable care and competence in obtaining and communicating information to Plaintiff and in
19 advising Plaintiff regarding the Core Bond Fund.

20 138.

21 Defendants breached the duties they owed to Plaintiff in the course of advising Plaintiff
22 regarding the Core Bond Fund. In advising Plaintiff regarding the Core Bond Fund, Defendants
23 made material misrepresentations and omissions by virtue of their failure to exercise reasonable
24 care or competence in communicating information to Plaintiff.

139.

Defendants' conduct unreasonably created a foreseeable risk that Plaintiff would invest in the Core Bond Fund and would sustain losses as a result thereof.

140.

As a direct and foreseeable result of Defendants' conduct, Plaintiff has been injured in an actual amount to be proven at trial, which is in excess of \$36.2 million. Plaintiff is entitled to an award of prejudgment interest on this claim.

**SIXTH CLAIM FOR RELIEF
NEGLIGENT MISREPRESENTATION**

141.

Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs as if fully alleged herein.

142.

As Plaintiff's investment advisers and broker-dealer, Defendants had a special relationship with Plaintiff. Defendants had a duty to exercise reasonable care and competence in obtaining and communicating information to Plaintiff.

143.

In the course of their business relationship with Plaintiff, Defendants supplied false information to Plaintiff regarding the Core Bond Fund and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, as alleged herein. Defendants failed to exercise reasonable care in obtaining information regarding the Core Bond Fund and/or in providing the information to Plaintiff regarding the Core Bond Fund.

144.

Plaintiff justifiably relied on Defendants' misrepresentations and omissions in investing in the Core Bond Fund.

145.

Plaintiff sustained damages as a result of their reliance on Defendants' misrepresentations and omissions.

146.

As a direct and foreseeable result of Defendants' negligent misrepresentations and omissions, Plaintiff has been injured in an actual amount to be proven at trial, which is in excess of \$36.2 million. Plaintiff is entitled to an award of prejudgment interest on this claim.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

- A. Awarding Plaintiff compensatory damages in an amount in excess of \$36.2 million and in an exact amount to be proven at trial;
- B. Awarding Plaintiff its costs and expenses for this litigation, including reasonable attorneys' fees and expert witness fees pursuant to ORS 59.137(4) and ORS 59.115(10) and Section 12.1 of the PMA;
- C. Awarding Plaintiff prejudgment interest at the statutory rate of 9%; and
- D. Awarding Plaintiff such other and further relief as may be deemed just and proper under the circumstances.

VII. JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

DATED this 13th day of April, 2009.

JOHN R. KROGER
Attorney General

By: 

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and

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Attorneys for Plaintiff

Trial Attorneys: Keith S. Dubanevich, OSB No. 975200
Keith A. Ketterling, OSB No. 913368

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

S.V.
4-20-09
3:20pm

THE STATE OF OREGON, by and through the
OREGON 529 COLLEGE SAVINGS BOARD
AND THE OREGON STATE TREASURER on
behalf of the OREGON COLLEGE SAVINGS
PLAN TRUST,

Plaintiffs,

v.

OPPENHEIMERFUNDS, INC., a Colorado
corporation; et al.,

Defendants.

Case No. 09C14018

SUMMONS

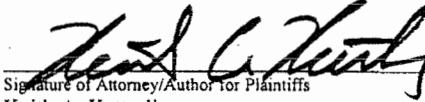
To: OPPENHEIMERFUNDS, INC., %The Corporation Company;
1675 Broadway, Suite 1200; Denver, CO 80202

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

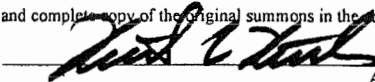
You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiffs' attorney or, of the plaintiffs do not have an attorney, proof of service upon the plaintiffs.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

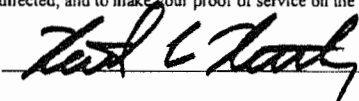

Signature of Attorney/Author for Plaintiffs
Keith A. Ketterling 913368
Attorney/Author's Name (typed or Printed) Bar No. (if any)
Stoll Stoll Berne Lokting & Shlachter P.C.
209 SW Oak Street, 5th Floor
Address
Portland Oregon 97301-4096 (503) 227-1600
City State Zip Phone
Keith S. Dubanevich 975200
Keith A. Ketterling 913368
Trial Attorney if other than above (typed or Printed) Bar No.

STATE OF OREGON, County of Multnomah) ss.

I the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.


Attorney(s) for Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.


Attorneys for Plaintiff(s)

STOLL STOLL BERNE LOKTING & SHLACHTER P.C.
Keith A. Ketterling, OSB No. 913368
Attorneys for Plaintiff
209 SW Oak Street, 5th Floor
Portland, Oregon 97204
Telephone: (503) 227-1600

EXHIBIT B
PAGE 1 OF 3

PROOF OF SERVICE

STATE OF _____)
 County of _____) ss.

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of said summons and the complaint mentioned therein, certified to be such by the attorney for the plaintiff, as follows:

PERSONAL SERVICE UPON INDIVIDUAL(S)

Upon _____, by delivering such true copy to him/her, personally and in person, at _____
 on _____, 20____, at _____ o'clock ____M.
 Upon _____, by delivering such true copy to him/her, personally and in person, at _____
 on _____, 20____, at _____ o'clock ____M.

Substituted Service upon Individual(s)**

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a
 person over the age of 14 years and member of the household of the person served on _____, 20____, at _____ o'clock ____M.
 Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a
 person over the age of 14 years and member of the household of the person served on _____, 20____, at _____ o'clock ____M.

Office Service upon Individual(s)

Upon _____, at the office which he/she maintains for the conduct of business at _____, by leaving such true copy with _____, the person who is
 apparently in charge, on _____, 20____, during normal working hours, at to-wit: _____ o'clock, ____M.

Service on Corporations, limited Partnerships or Unincorporated Associations Subject to Suit Under a Common Name

Upon _____, by _____

(Name of Corporation, Limited Partnership, Etc.)

(a) delivering such true copy, personally and in person, to _____, who is a/the * _____
 thereof; OR

(b) leaving such true copy with _____, the person who is apparently in charge of the office of
 _____, who is a/the * _____ thereof.

*Specify registered agent, officer, (by title), director, general partner, managing agent.

at _____, on _____, 20____, at _____ o'clock ____M.

DATED: _____ 20____,

Sheriff

BY _____

Deputy

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that I am not a party to nor an officer, director or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

DATED: _____ 20____,

Signature

Type or Print Name

Address

Phone

The signature lines on the left should be used only by an Oregon county sheriff or deputy; all other servers complete certificate on the right. The Proof of Service above contains most, but not all, of the methods of service. For example, this form does not include proof of service on a minor or incompetent person. See ORCP 7D(2) and 7D(3) for complete service methods on particular parties. **Where substituted or office service is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed a true copy of the summons and complaint to the defendant at the defendant's dwelling house or usual place of abode, together with a statement of the time, date and place at which such service was made. Use 5-N Form No. 1149 or equivalent.

EXHIBIT B
 PAGE 2 OF 3

THIRD JUDICIAL DISTRICT
MARION COUNTY CIRCUIT COURT

Important Notice

Read Carefully. If you do not comply with the following, your case will be dismissed.

Oregon v. Oppenheimer

Case Number: 09C14018

This case has been assigned to :

☐ Judge Pamela L Abernethy
(503) 566-2974

☐ Judge Mary M. James
(503) 373-4303

☒ Judge L. E. Ashcroft
(503) 588-5492

☐ Judge Albin W. Norblad
(503) 588-5028

☐ Judge Claudia M. Burton
(503) 584-7713

☐ Judge Tracy A. Prall
(503) 588-5026

☐ Judge Don A. Dickey
(503) 373-4445

☐ Judge James L. Rhoades
(503) 588-7950

☐ Judge Dennis J. Graves
(503) 585-4939

☐ Judge Susan M. Tripp
(503) 373-4361

☐ Judge Joseph C. Guimond
(503) 588-5160

☐ Judge John B. Wilson
(503) 588-5030

☐ Judge Thomas M. Hart
(503) 584-7749

If a party served with a summons intends to contest this matter, that party must file a response, or other appearance, as instructed in the summons.

A status conference will be set after the party served has file and appearance. All attorneys must appear at the status conference with their calendars. If parties do not have legal representation, they are to appear at the status conference.

If the Plaintiff has not filed a Return or Acceptance of Service by the 63rd day after the filing of the complaint, the case may be dismissed for want of prosecution 28 days later. If proof of service is filed by the 91st day from the filing of the complaint, and no default is later filed, the case will be dismissed 119 days from the date of filing of the complaint.

Follow these instructions carefully and refer to the Uniform Trial Court Rules for further information or clarification.

All correspondence or other communication shall be directed to the assigned Judge at the following address:

Third Judicial District, PO Box 12869, Salem, Oregon 97309-0869.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

THE STATE OF OREGON, by and through the
OREGON 529 COLLEGE SAVINGS BOARD
AND THE OREGON STATE TREASURER on
behalf of the OREGON COLLEGE SAVINGS
PLAN TRUST,

Plaintiffs,

v.

✓ OPPENHEIMERFUNDS, INC., a Colorado
corporation; et al.,

Defendants.

Case No. 09C14018

SUMMONS

To: OPPENHEIMERFUNDS DISTRIBUTOR, INC., %The Corporation Company;
111 Eighth Avenue, New York, NY 10011

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiffs' attorney or, of the plaintiffs do not have an attorney, proof of service upon the plaintiffs.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

Signature of Attorney/Author for Plaintiffs

Signature of Attorney/Author for Plaintiffs

Keith A. Ketterling

913368

Attorney/Author's Name (typed or Printed)

Bar No. (if any)

Stoll Stoll Berne Lokting & Shlachter P.C.

209 SW Oak Street, 5th Floor

Address

Portland Oregon 97301-4096 (503) 227-1600

City

State

Zip

Phone

Keith S. Dubanevich

975200

Keith A. Ketterling

913368

Trial Attorney if other than above (typed or Printed)

Bar No.

STATE OF OREGON, County of Multnomah) ss.

I the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.

Attorney(s) for Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

Attorneys for Plaintiff(s)

STOLL STOLL BERNE LOKTING & SHLACHTER P.C.

Keith A. Ketterling, OSB No. 913368

Attorneys for Plaintiff

209 SW Oak Street, 5th Floor

Portland, Oregon 97204

Telephone: (503) 227-1600

EXHIBIT 0

PAGE 1 OF 3

PROOF OF SERVICE

STATE OF _____)
 County of _____) ss.

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of said summons and the complaint mentioned therein, certified to be such by the attorney for the plaintiff, as follows:

PERSONAL SERVICE UPON INDIVIDUAL(S)

Upon _____, by delivering such true copy to him/her, personally and in person, at _____
 on _____, 20____, at _____ o'clock ____M.

Upon _____, by delivering such true copy to him/her, personally and in person, at _____
 on _____, 20____, at _____ o'clock ____M.

Substituted Service upon Individual(s)**

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person over the age of 14 years and member of the household of the person served on _____, 20____, at _____ o'clock ____M.

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person over the age of 14 years and member of the household of the person served on _____, 20____, at _____ o'clock ____M.

Office Service upon Individual(s)

Upon _____, at the office which he/she maintains for the conduct of business at _____, by leaving such true copy with _____, the person who is apparently in charge, on _____, 20____, during normal working hours, at to-wit: _____ o'clock, ____M.

Service on Corporations, limited Partnerships or Unincorporated Associations Subject to Suit Under a Common Name

Upon _____, by _____
 (Name of Corporation, Limited Partnership, Etc.)

(a) delivering such true copy, personally and in person, to _____, who is a/the * _____ thereof; OR

(b) leaving such true copy with _____, the person who is apparently in charge of the office of _____, who is a/the * _____ thereof.

*Specify registered agent, officer (by title), director, general partner, managing agent.

at _____, on _____, 20____, at _____ o'clock ____M.

DATED: _____ 20____,

Sheriff

BY _____
 Deputy

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that I am not a party to nor an officer, director or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

DATED: _____ 20____,

Signature

Type or Print Name

Address

Phone

The signature lines on the left should be used only by an Oregon county sheriff or deputy; all other servers complete certificate on the right. The Proof of Service above contains most, but not all, of the methods of service. For example, this form does not include proof of service on a minor or incompetent person. See ORCP 7D(2) and 7D(3) for complete service methods on particular parties. **Where substituted or office service is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed a true copy of the summons and complaint to the defendant at the defendant's dwelling house or usual place of abode, together with a statement of the time, date and place at which such service was made. Use S-N Form No. 1149 or equivalent.

EXHIBIT C
 PAGE 2 OF 3

**THIRD JUDICIAL DISTRICT
MARION COUNTY CIRCUIT COURT**

Important Notice

Read Carefully. If you do not comply with the following, your case will be dismissed.

Oregon v. Oppenheimer
09C14018

Case Number: _____ This case has been assigned to :

- | | |
|--|---|
| <input type="checkbox"/> Judge Pamela L Abernethy
(503) 566-2974 | <input type="checkbox"/> Judge Mary M. James
(503) 373-4303 |
| <input checked="" type="checkbox"/> Judge L. E. Ashcroft
(503) 588-5492 | <input type="checkbox"/> Judge Albin W. Norblad
(503) 588-5028 |
| <input type="checkbox"/> Judge Claudia M. Burton
(503) 584-7713 | <input type="checkbox"/> Judge Tracy A. Prall
(503) 588-5026 |
| <input type="checkbox"/> Judge Don A. Dickey
(503) 373-4445 | <input type="checkbox"/> Judge James L. Rhoades
(503) 588-7950 |
| <input type="checkbox"/> Judge Dennis J. Graves
(503) 585-4939 | <input type="checkbox"/> Judge Susan M. Tripp
(503) 373-4361 |
| <input type="checkbox"/> Judge Joseph C. Guimond
(503) 588-5160 | <input type="checkbox"/> Judge John B. Wilson
(503) 588-5030 |
| <input type="checkbox"/> Judge Thomas M. Hart
(503) 584-7749 | |

If a party served with a summons intends to contest this matter, that party must file a response, or other appearance, as instructed in the summons.

A status conference will be set after the party served has file and appearance. All attorneys must appear at the status conference with their calendars. If parties do not have legal representation, they are to appear at the status conference.

If the Plaintiff has not filed a Return or Acceptance of Service by the 63rd day after the filing of the complaint, the case may be dismissed for want of prosecution 28 days later. If proof of service is filed by the 91st day from the filing of the complaint, and no default is later filed, the case will be dismissed 119 days from the date of filing of the complaint.

Follow these instructions carefully and refer to the Uniform Trial Court Rules for further information or clarification.

All correspondence or other communication shall be directed to the assigned Judge at the following address:

Third Judicial District, PO Box 12869, Salem, Oregon 97309-0869.

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

S.V.
4-20-09
3:20pm

THE STATE OF OREGON, by and through the
OREGON 529 COLLEGE SAVINGS BOARD
AND THE OREGON STATE TREASURER on
behalf of the OREGON COLLEGE SAVINGS
PLAN TRUST,

Plaintiffs,

v.

OPPENHEIMERFUNDS, INC., a Colorado
corporation; et al.,

Defendants.

Case No. 09C14018

SUMMONS

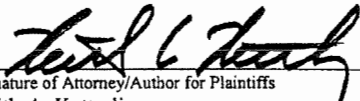
To: OFI PRIVATE INVESTMENTS, INC., %The Corporation Company;
1675 Broadway, Suite 1200; Denver, CO 80202

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

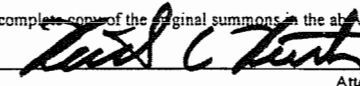
You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal paper called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiffs' attorney or, of the plaintiffs do not have an attorney, proof of service upon the plaintiffs.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may call the Oregon State Bar's Lawyer Referral Service at (503) 684-3763 or toll-free in Oregon at (800) 452-7636.

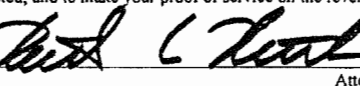

Signature of Attorney/Author for Plaintiffs
Keith A. Ketterling 913368
Attorney/Author's Name (typed or Printed) Bar No. (if any)
Stoll Stoll Berne Lokting & Schlachter P.C.
209 SW Oak Street, 5th Floor
Address
Portland Oregon 97301-4096 (503) 227-1600
City State Zip Phone
Keith S. Dubanevich 975200
Keith A. Ketterling 913368
Trial Attorney if other than above (typed or Printed) Bar No

STATE OF OREGON, County of Multnomah) ss.

I the undersigned attorney of record for the plaintiff, certify that the foregoing is an exact and complete copy of the original summons in the above entitled action.


Attorney(s) for Plaintiff(s)

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.


Attorneys for Plaintiff(s)

STOLL STOLL BERNE LOKTING & SHLACHTER P.C.
Keith A. Ketterling, OSB No. 913368
Attorneys for Plaintiff
209 SW Oak Street, 5th Floor
Portland, Oregon 97204
Telephone: (503) 227-1600

EXHIBIT D
PAGE 1 OF 3

PROOF OF SERVICE

STATE OF _____)
 County of _____) ss.

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of said summons and the complaint mentioned therein, certified to be such by the attorney for the plaintiff, as follows:

PERSONAL SERVICE UPON INDIVIDUAL(S)

Upon _____, by delivering such true copy to him/her, personally and in person, at _____
 on _____, 20____, at _____ o'clock ____M.
 Upon _____, by delivering such true copy to him/her, personally and in person, at _____
 on _____, 20____, at _____ o'clock ____M.

Substituted Service upon Individual(s)**

Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person over the age of 14 years and member of the household of the person served on _____, 20____, at _____ o'clock ____M.
 Upon _____, by delivering such true copy at his/her dwelling house or usual place of abode, to-wit: _____, to _____, who is a person over the age of 14 years and member of the household of the person served on _____, 20____, at _____ o'clock ____M.

Office Service upon Individual(s)

Upon _____, at the office which he/she maintains for the conduct of business at _____, by leaving such true copy with _____, the person who is apparently in charge, on _____, 20____, during normal working hours, at to-wit: ____ o'clock, ____M.

Service on Corporations, limited Partnerships or Unincorporated Associations Subject to Suit Under a Common Name

Upon _____, by _____
 (Name of Corporation, Limited Partnership, Etc.)

(a) delivering such true copy, personally and in person, to _____, who is a/the * _____ thereof; OR
 (b) leaving such true copy with _____, the person who is apparently in charge of the office of _____, who is a/the * _____ thereof.

*Specify registered agent, officer (by title), director, general partner, managing agent.

at _____, on _____, 20____, at _____ o'clock ____M.

DATED: _____ 20____,

Sheriff

BY _____
 Deputy

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that I am not a party to nor an officer, director or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

DATED: _____ 20____,

Signature

Type or Print Name

Address

Phone

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EXHIBIT D
 PAGE 2 OF 3

THIRD JUDICIAL DISTRICT
MARION COUNTY CIRCUIT COURT

Important Notice

Read Carefully. If you do not comply with the following, your case will be dismissed.

Oregon v. Oppenheimer
Case Number: 09C14018 This case has been assigned to :

- | | |
|--|---|
| <input type="checkbox"/> Judge Pamela L Abernethy
(503) 566-2974 | <input type="checkbox"/> Judge Mary M. James
(503) 373-4303 |
| <input checked="" type="checkbox"/> Judge L. E. Ashcroft
(503) 588-5492 | <input type="checkbox"/> Judge Albin W. Norblad
(503) 588-5028 |
| <input type="checkbox"/> Judge Claudia M. Burton
(503) 584-7713 | <input type="checkbox"/> Judge Tracy A. Prall
(503) 588-5026 |
| <input type="checkbox"/> Judge Don A. Dickey
(503) 373-4445 | <input type="checkbox"/> Judge James L. Rhoades
(503) 588-7950 |
| <input type="checkbox"/> Judge Dennis J. Graves
(503) 585-4939 | <input type="checkbox"/> Judge Susan M. Tripp
(503) 373-4361 |
| <input type="checkbox"/> Judge Joseph C. Guimond
(503) 588-5160 | <input type="checkbox"/> Judge John B. Wilson
(503) 588-5030 |
| <input type="checkbox"/> Judge Thomas M. Hart
(503) 584-7749 | |

If a party served with a summons intends to contest this matter, that party must file a response, or other appearance, as instructed in the summons.

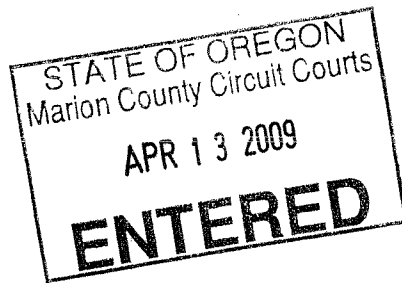
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Follow these instructions carefully and refer to the Uniform Trial Court Rules for further information or clarification.

All correspondence or other communication shall be directed to the assigned Judge at the following address:

Third Judicial District, PO Box 12869, Salem, Oregon 97309-0869.



STATE OF OREGON
MARION COUNTY COURTS
APR 13 2009
FILED

ORIGINAL

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MARION

THE STATE OF OREGON, by and through
the OREGON 529 COLLEGE SAVINGS
BOARD AND THE OREGON STATE
TREASURER on behalf of the OREGON
COLLEGE SAVINGS PLAN TRUST,

Plaintiff,

v.

OPPENHEIMERFUNDS, INC., a Colorado
corporation; OPPENHEIMERFUNDS
DISTRIBUTOR, INC., a New York
corporation; and OFI PRIVATE
INVESTMENTS, INC., a New York
corporation;

Defendants.

Case No. 09C14018

COMPLAINT FOR VIOLATION OF
THE OREGON SECURITIES LAW,
BREACH OF CONTRACT, BREACH
OF FIDUCIARY DUTY,
NEGLIGENCE, AND NEGLIGENT
MISREPRESENTATION

CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION

JURY TRIAL DEMANDED

1 Plaintiff State of Oregon, by and through the Oregon 529 College Savings Board
2 (“Plaintiff” or the “Oregon Board”) and the Oregon State Treasurer on behalf of the Oregon
3 College Savings Plan Trust (the “Oregon Trust”) alleges as follows:

4 **I. INTRODUCTION AND NATURE OF THE ACTION**

5 1.

6 The Oregon Board initially hired Defendants OppenheimerFunds, Inc. (“OFI”) and
7 OppenheimerFunds Distributor, Inc (“OFDI”) pursuant to a Program Management Agreement
8 (“PMA”) in June 2004. Pursuant to that agreement, Defendants agreed to provide the Oregon
9 529 College Savings Plan (the “Oregon Plan”) with investment and program management
10 services that would benefit families saving for their children’s higher education. At some point
11 after that date, OFI may have attempted to delegate or delegated some of its management duties
12 to Defendant OFI Private Investments, Inc. (“OFI Private”). OFI, however, continued to be
13 bound to all of its management duties under the contract and at law.

14 2.

15 Pursuant to the PMA, OFI agreed that the investments it recommended for children’s
16 college funds would be consistent with the Oregon Board’s approved investment policy
17 (“Investment Policy”). It also agreed to update the Oregon Board if there were any material
18 changes to the investments in the Oregon Plan and make necessary changes to the Plan as a
19 result. The Investment Policy made perfectly clear to Defendants that college savings plan
20 beneficiaries who wished to be in an Ultraconservative or Conservative portfolio would be
21 provided conservative investments whose objectives were “income” and “protection of
22 principal” with “minimal growth.” Even for those who wished to invest in moderate, balanced
23 and more aggressive portfolios, OFI agreed to provide bond funds that would be conservative
24 investments to protect against the volatility of equity securities in those portfolios.

1 3.

2 In addition to duties owed to the Trust by contract, OFI owed fiduciary duties to the Trust
3 as an investment adviser that provided investment advice intended to benefit the Trust and,
4 ultimately, families and children saving for college. Those duties included the duties of care,
5 loyalty, honesty, and full and fair disclosure of all material facts. As discussed at length below,
6 defendants violated their duties to the Trust by, among other things, continuing to recommend
7 and sell the OppenheimerFunds Core Bond Fund ("Core Bond Fund") to all of the Trust
8 portfolios and failing to inform the Board of the substantial changes in risks that the managers of
9 the Core Bond Fund had undertaken by late 2007 or early 2008.

10 4.

11 From the outset in 2004, OFI recommended, solicited, and sold the OppenheimerFunds
12 Core Bond Fund (originally presented as the Oppenheimer Bond Fund) to the Oregon Plan's
13 various portfolios. OFI recommended and sold the Core Bond Fund as a straightforward bond
14 fund that invested mainly in high quality corporate bonds with an ancillary focus on government
15 bonds. In 2004 and for the first few years, the Core Bond Fund appeared to be what OFI
16 represented it to be.

17 5.

18 Over time, however, and without discussion with the Board, the Core Bond Fund
19 underwent a radical transformation. By late 2007 or early 2008, the Core Bond Fund was no
20 longer a plain bond fund that sought to protect principal, obtain income and minimal growth
21 through corporate and government debt securities. It had become a hedge-fund like investment
22 fund that took extreme risks in a search for speculative large returns. It began, among other
23 things, to sell credit default swaps and other high-risk derivative instruments to Wall Street
24 firms, promising to pay and insure those Wall Street firms if they lost money as a result of
25 defaults in mortgage-backed securities investments. These were high-risk bets that were plainly
26 inappropriate for those saving for college or in college.

6.

Defendants knowingly failed to disclose the following material facts in violation of their contractual duties and Oregon law:

- (a) The Core Bond Fund was no longer an appropriate investment for anyone seeking conservative investments or protection of principal because by late 2007 or early 2008 it had become a hedge-fund like investment fund that took excessive risks through speculative investment strategies;
- (b) The Core Bond Fund was particularly inappropriate for anyone who was in-college or within a few years to college because the risks the fund had undertaken exposed it to substantial losses at a time when families and individuals needed immediate or imminent access to their money;
- (c) As of late 2007 or early 2008, the Core Bond Fund had engaged in a new strategy of investing in high-risk derivatives (credit default swaps and total return swaps) and mortgage-backed securities that were not designed to protect principal or obtain minimal growth but to achieve outsized returns through extraordinary risks that had the potential for (and ultimately resulted in) staggering losses;
- (d) The Core Bond Fund was actually managed according to a more aggressive strategy by which it took far greater risks than initially disclosed to the Oregon Board; and,
- (e) The Core Bond Fund investment managers ignored the warnings of its own risk managers when the Fund exceeded its risk controls and risk budget in April 2008. Rather than adjust its risk downward, the Core Bond Fund changed its risk controls and risk metrics in order to allow it to take even greater risks. In fact, after receiving these warnings from its own risk managers, the OFI portfolio managers decided that they would, in their own words, place "big bets" with the college savings plan's and other investors' money, speculative bets that they knew to be in excess of OFI's risk controls.

7.

As the result of its speculation, the Core Bond Fund suffered losses in 2008 and 2009 that OFI itself characterized as "mind-numbing." The Core Bond Fund lost over 35 percent of its value in 2008 and continued to fall precipitously another 10% in the first three months of 2009.

8.

Not until late October of 2008, after the Oregon Trust (and thereby families' college savings accounts) had already lost millions as a result of its investment in the Core Bond Fund, did OFI even begin to suggest to the Oregon Board just a few of the changes in the



1 characteristics of the Fund. Even at that time, however, OFI continued to reassure the Oregon
2 Board and advised it to remain invested in the Core Bond Fund. Despite OFI's assurances, in
3 late 2008 and early 2009, the Oregon Board began an investigation into the Fund. At a meeting
4 in late January 2009, the Oregon Board voted to begin to terminate the Oregon Plan's
5 participation in the Core Bond Fund (and the Oppenheimer Funds Limited Term Government
6 Bond) and finalized that plan at a follow-up meeting in February 2009.

7 9.

8 The Oregon Trust's losses are the direct result of Defendants' breach of contractual
9 duties, breach of fiduciary duties owed to the Oregon Trust, negligence, and violations of the
10 Oregon Securities Law.

11 10.

12 The State of Oregon created the Oregon Board and Oregon Trust. The Oregon Treasurer
13 chairs the Oregon Trust. Through this action, the Oregon Board, on behalf of the Oregon Trust,
14 seeks to recover the damages suffered by the Oregon Trust and the many Oregon families who
15 lost substantial amounts of their college savings as the result of Defendants' wrongdoing.

16 **II. PARTIES**

17 11.

18 The Oregon Board was created to establish, implement and maintain the Oregon 529
19 College Savings Network (the "Oregon 529 Network"). The Oregon Board members are the
20 trustees of the Oregon Trust, which holds the funds invested in the Oregon Plan.

21 12.

22 Defendant OFI is a Colorado corporation with its principal place of business in New
23 York. OFI is a registered investment adviser with the Securities and Exchange Commission
24 ("SEC").



13.

Defendant OFDI is a New York corporation with its principal place of business in New York. OFDI is a registered broker-dealer with the Financial Industry Regulatory Authority ("FINRA").

14.

Defendant OFI Private is a New York corporation with its principal place of business in New York. OFI Private is a wholly owned subsidiary of OFI and a registered investment adviser with the SEC. Where Plaintiff alleges a violation of OFI's duties arising out of its role as a program manager, such duties are also the duties of defendant OFI Private and, therefore, such references to OFI include OFI Private.

III. JURISDICTION AND VENUE

15.

This Court has subject matter jurisdiction over the Oregon Securities Law claims under Article VII, section 9 of the Oregon Constitution.

16.

This Court has personal jurisdiction over Defendants under ORCP 4(J)(2), which provides for personal jurisdiction over any person who engages in conduct in violation of the Oregon Securities Law.

17.

Violations of law occurred in Marion County, Oregon, including the dissemination of materially false and misleading statements complained of herein. Defendants have regular sustained business activity in Marion County.

18.

This Court has jurisdiction over Defendants pursuant to a contractual forum selection clause found at Section 18.9 of the PMA by and between the State of Oregon, acting by and through the Oregon 529 College Savings Board, on the one hand, and Defendants OFI and

1 OFDI, on the other hand, dated as of June 4, 2004. Defendant OFI Private may have been or was
 2 delegated some duties under that contract and may also be a party thereto. The forum selection
 3 clause is binding on each Defendant and provides that any action arising from or relating to the
 4 PMA "shall be brought and conducted solely and exclusively within the Circuit Court of Marion
 5 County for the State of Oregon"

6 **IV. CLAIMS NOT SUBJECT TO REMOVAL FROM STATE COURT**

7 19.

8 The claims alleged in this Complaint are not subject to removal from state court under the
 9 Securities Litigation Uniform Standards Act, 15 USC §77p(d)(2)(A). That statute specifically
 10 preserves state-court claims brought, as here, by states and political subdivisions thereof.
 11 Further, the claims are not subject to removal under diversity jurisdiction principles because
 12 "[t]here is no question that a State is not a 'citizen' for purposes of the diversity jurisdiction."
 13 *Moor v. County of Alameda*, 411 US 693, 717, 93 S Ct 1785, 36 L Ed 2d 596 (1973). The
 14 United States District Court for the District of Oregon recently held on two separate occasions
 15 that the State of Oregon and its entities are not citizens for diversity jurisdiction and, thus,
 16 remanded similar state securities law complaints by State entities to State court. *State of Oregon*
 17 *by and through the Oregon Public Employee Retirement Board and the Oregon State Treasurer*
 18 *on behalf of the Oregon Public Employee Retirement Fund v. Marsh & McLennan Co's, Inc.*,
 19 USDC Oregon CV-05-1434PK, Opinion and Order (Jan. 27, 2006); *State of Oregon by and*
 20 *through the Oregon Public Employee Retirement Board and the Oregon State Treasurer on*
 21 *behalf of the Oregon Public Employee Retirement Fund v. American Int'l Group, Inc.*, USDC
 22 Oregon CV-08-6110-HO, Opinion and Order, (Aug. 20, 2008). As a result, this case will
 23 proceed in the Circuit Court of the State of Oregon.

24 20.

25 The claims alleged in this Complaint are also not subject to removal from state court
 26 pursuant to the forum selection clause found at Section 18.9 of the PMA. The forum selection

1 clause is binding on each Defendant and provides that any action arising from or relating to the
 2 PMA "shall be brought and conducted solely and exclusively within the Circuit Court of Marion
 3 County for the State of Oregon" This action arises from and relates to the PMA.

4 **V. FACTUAL ALLEGATIONS**

5 **A. Background of the Oregon 529 College Savings Network**

6 21.

7 The Oregon 529 Network was created by the Oregon legislature in 1999 and commenced
 8 in January 2001 in order to provide families and others a tax-advantaged opportunity to save for
 9 the cost of higher education expenses. A 529 plan (named after Section 529 of the Internal
 10 Revenue Code) is an education savings plan designed to encourage families to save in advance
 11 for college expenses through the use of tax incentives. Funds invested in the Oregon Plan by
 12 plan participants are placed in the Oregon Trust. The Oregon Trust, in turn, relies on the
 13 investment information and services provided by Defendants to invest those funds for the
 14 Oregon Trust beneficiaries.

15 22.

16 Plan participants make contributions to individual accounts for the benefit of designated
 17 beneficiaries whose education expenses may be paid using money from the account. The monies
 18 invested in the individual accounts are part of the Oregon Trust. Title to the assets held in the
 19 Oregon Trust is vested in the Oregon Board as trustees of the Oregon Trust. The Oregon Board
 20 operates the Oregon Trust for the benefit of the designated beneficiaries.

21 23.

22 The Oregon 529 Network provides different methods for the investment of funds in the
 23 Oregon Plan. There is a "direct-sold" option available directly from the Oregon 529 Network. It
 24 includes portfolios of funds that have been assembled and recommended by the Oregon 529
 25 Network's investment adviser, Defendant OFI. OFI also manages the underlying funds in each
 26 portfolio. The funds in these portfolios are distributed by Defendant OFDI. There is also an

“adviser-sold” option that includes nearly identical portfolios but is provided only through financial advisers. The term “Oregon Plan” as used herein refers to both the “direct-sold” and “adviser-sold” investment options.¹

24.

The Oregon Plan offers plan participants three ways to select the investment approach and type of risk that they as investors want to incur in saving for their children’s college: (1) the Lifestyle Option, (2) the Years to College Option, and (3) the Single Fund Portfolio Option. The Single Fund Portfolio Option is not involved in this action because it did not hold investments in the Core Bond Fund.

25.

The Lifestyle Option offers investment portfolios with various levels of risk. The portfolio options are: (1) OppenheimerFunds 100% Equity Portfolio, (2) OppenheimerFunds Aggressive Portfolio, (3) OppenheimerFunds Moderate Portfolio, (4) OppenheimerFunds Balanced Portfolio, (5) OppenheimerFunds Conservative Portfolio, and (6) OppenheimerFunds Ultra Conservative Portfolio. The plan participants choose among the portfolios and their funds remain in the selected portfolio(s) until the participant requests they be moved.

26.

The Years to College Option automatically moves the participant’s account to lower risk portfolios as the designated beneficiary nears college. The Years to College Option utilizes five of the portfolios also available in the Lifestyle Option. For accounts whose designated beneficiary is 10-plus years to college, the account is invested in the OppenheimerFunds Aggressive Portfolio (the “Aggressive /10+ Years to College Portfolio”). For accounts whose designated beneficiary is seven to nine years to college, the account is invested in the

¹ The “direct-sold” option also includes portfolios assembled by Vanguard and the “adviser-sold” option includes portfolios assembled by MFS. None of those portfolios or their underlying funds is involved in this action.



1 OppenheimerFunds Moderate Portfolio (the “Moderate /7-9 Years to College Portfolio”).² For
 2 accounts whose designated beneficiary is four to six years to college, the account is invested in
 3 the OppenheimerFunds Balanced Portfolio (the “Balanced /4-6 Years to College Portfolio”). For
 4 accounts whose designated beneficiary is one to three years to college, the account is invested in
 5 the OppenheimerFunds Conservative Portfolio (the “Conservative /1-3 Years to College
 6 Portfolio”), and for accounts whose designated beneficiary is in college, the account is invested
 7 in the OppenheimerFunds Ultra Conservative Portfolio (the “Ultra Conservative/In College
 8 Portfolio”). In the appropriate years, the funds are moved between the portfolios on the first
 9 business day of August.

10 27.

11 The more conservative portfolios have always been represented by Defendants as having
 12 objectives of “income and protection of principal” and “preservation of capital.” As discussed
 13 further below, these portfolios were never intended to take hedge-fund like risks or strive to
 14 obtain high-risk returns that might expose someone in college or nearly in college to substantial
 15 losses at exactly the time that they intend to use their money. As was abundantly clear to
 16 Defendants, those in college or nearly in college cannot afford to take huge risks with money that
 17 will be used either immediately or imminently. Further, all of the portfolios were to have
 18 conservative investments, including the Core Bond Fund, within them.

19 **B. The Oregon Board hires OFI as a fiduciary to provide investment advice to**
 20 **the Oregon Trust according to the Oregon Trust investment policy and**
 21 **applicable law.**

22 28.

23 The Oregon Board engages a professional investment adviser and program manager to
 24 advise the Board and invest Oregon Trust assets. The Oregon Board relies on the investment
 25 adviser to provide it with recommendations that are consistent with the Board approved

26 ² The length of some of the Years to College Portfolios in the adviser-sold plan was extended in April 2008.



1 Investment Policy and to invest the college savings plan money accordingly. On November 13,
2 2003, the Oregon Board voted to replace Strong Capital Management, Inc. as a program manager
3 for the Oregon 529 Network. The Oregon Board interviewed numerous potential program
4 managers before choosing OFI. On February 17, 2004, the Oregon Board voted to select OFI as
5 program manager for the Oregon Plan.

6 29.

7 In making the decision to select OFI as the program manager, the Oregon Board relied
8 upon information provided to it by Defendants including, among other things, representations by
9 OFI that it would recommend investment funds for the various plan portfolios that were
10 consistent with the investment objectives of each portfolio.

11 30.

12 In addition, OFI presented the Oregon Board with a proposal in which it said that it was a
13 client-focused firm offering excellent investment management and award winning customer
14 service. OFI described itself as well respected and represented that it operated with integrity.
15 The Oregon Board relied upon these representations in voting to select OFI as the program
16 manager.

17 31.

18 Subsequently, the Oregon Board, on behalf of the Oregon Trust, entered into the PMA
19 dated June 4, 2004, with Defendants OFI and OFDI. Pursuant to the PMA, OFI became the
20 Program Manager for the Oregon Plan and OFDI (a registered broker-dealer) became the
21 distributor for the Oregon Plan.

22 32.

23 Under certain conditions, the PMA allows OFI to delegate the performance of its
24 contractual duties to an affiliate. In the event of any delegation, OFI is "deemed to have full
25 control over its delegates," and remains responsible for the performance of its contractual duties
26 as if no delegation was made. PMA, Section 2.2. At some point prior to December 20, 2007,

1 OFI may have attempted to delegate or did delegate its Program Management duties under the
 2 PMA to OFI Private, but Oregon did not receive a written notice of delegation as required under
 3 Section 2.2 of the PMA.

4 33.

5 The PMA contained numerous provisions requiring Defendants, among other things, (1)
 6 to recommend investment portfolios consistent with the Oregon Plan's Investment Policy, (2) to
 7 ensure that once selected, those portfolios and the underlying funds remained consistent with the
 8 Investment Policy, and (3) to regularly report to the Oregon Board on any significant issues,
 9 events or changes in the portfolios or the underlying funds.

10 34.

11 Pursuant to the PMA, Defendants made a number of certifications, including the
 12 following:

13 (A) [that] all portions of the Plan Description for the [Oregon Plan]
 14 ... are true and accurate in all material respects, (B) to the best of
 15 [Defendants'] knowledge, based solely ... on [their] due diligence
 16 review and discussions concerning the Plan Description for the
 17 [Oregon] Plan, the Plan Description for the [Oregon] Plan
 18 completely and accurately describes the [Oregon] Plan and does
 19 not contain any untrue statement of a material fact or omit to state
 a material fact necessary to make the statements made therein not
 misleading in light of the circumstances under which they were
 made, and (C) each of the representations and warranties of
 [Defendants] set forth in [Section 13] shall be true and correct in
 all material respects as of the Start Date as if made on and as of the
 Start Date. (PMA, Sections 3.2(b)(ii) and (iii)).

20 35.

21 Pursuant to Section 13 of the PMA, OFI made the following representations, warranties
 22 and covenants:

23 (a) "[t]he Plan Marketing Materials ... shall not contain any untrue statement of
 24 material fact or omit to state a material fact necessary to make the statements not
 misleading" (Section 13.1(h));

25 (b) that "[t]he operations of [Defendants] are and will at all times during the term of
 26 this Agreement be in material compliance with all laws, rules, regulations, orders
 and restrictions of any federal, state, county, municipal, or local government or
 governmental body or agency applicable to their operations ..." (Section 13.1(i)).

36.

Pursuant to Section 13 of the PMA, OFDI made the following representations, warranties and covenants:

- (a) "[t]he Plan Marketing Materials provided or prepared by OFDI ... shall not contain any untrue statement of material fact or omit to state a material fact necessary to make the statements not misleading" (Section 13.2(h));
- (b) that "[t]he operations of OFDI are and will at all times during the term of this Agreement be in material compliance with all laws, rules, regulations, orders and restrictions of any federal, state, county, municipal, or local government or governmental body or agency applicable to its operations ..." (Section 13.2(i)).

37.

The PMA imposes, among others, the following duties on Defendants:

- (a) OFI and OFDI's duty to deliver to the Oregon Board certificates relating to various matters (including the accuracy of Oregon Plan documents and compliance with applicable law) in the event they "know of any new or changed circumstances ..." (Section 3.6);
- (b) OFI's duty to "invest and manage the assets of the [Oregon] Trust as investment agent of the [Oregon] Board" in accordance with the Investment Policy (Section 4.1);
- (c) OFI's duty to provide to the Board "all information about [fund managers] and Underlying Funds ... as may be required for the [Oregon] Board to carry out its duties as trustees of the [Oregon] Plan Trust," and to "review the Investment Portfolios and Underlying Funds utilized in the [Oregon] Plan and propose changes thereto in accordance with Article V [of the PMA]" (Section 4.1);
- (d) OFI's duty to recommend Investment Portfolios having "the characteristics ... described in the then-current Plan Description" (Section 4.4);
- (e) OFI's duty to "invest the assets in each of the Investment Portfolios in the Underlying Funds so that such assets are allocated according to guidelines established by OFI and approved by the Board ..." (Section 5.2(a));
- (f) OFI's duty to determine that "the investment objectives, policies and practices of the Underlying Funds in which [Oregon] Trust assets are invested are consistent with the [Oregon] Board's Investment Policy and applicable law" (Section 5.2(b));
- (g) OFI's duty to "at least annually, review the Investment Portfolios of the [Oregon] Plan" (Section 5.3);
- (h) OFI's duty to "from time to time propose the addition of new Investment Portfolios, the removal of existing Investment Portfolios, or the modification of

the Underlying Funds in which certain existing Investment Portfolios invest . . . , all in accordance with the applicable Investment Policy and subject to Board approval.” (Section 5.3);

- (i) OFI’s duty to “deliver to the Board quarterly and annual reports on . . . Investment Portfolio performance . . .” (Section 8.2);
- (j) OFI’s duty to prepare all Plan Marketing Materials (Section 9.1(a)); and
- (k) OFI’s duty to (1) amend or supplement the Plan Description “in order to reflect material developments arising subsequent to the preparing and delivery of the initial Plan Description,” (2) to notify the Board “of any development of which [they are] aware that would be material to the [Oregon] Plan that is not disclosed in, or is inconsistent with, the applicable Plan Description then in effect,” and (3) to “suggest modifications to the applicable Plan Description reflecting such material development” (Section 9.1(b)).

38.

As noted above, OFI had a duty to invest and manage the assets of the Oregon Trust in accordance with the Investment Policy of the Oregon Board. The Investment Policy of the Oregon Board is contained in a document titled Adopted Investment Objectives Policies and Practices, dated June 4, 2004. The Investment Policy imposes the following additional duties on OFI:

[OFI] shall provide quarterly investment reports to the [Oregon] Board that include investment performance, applicable benchmark performance, [Oregon] Plan assets, and the number of Accounts in each of the Plan's investment options. The report shall include significant issues and events or changes in [Oregon] Plan Portfolios and Underlying Funds that have occurred during the last reporting period. A detailed report shall be presented to the [Oregon] Board annually, which analyzes the investments supporting the [Oregon] Plan's investment options.

39.

The Investment Policy also describes the investment options available to plan participants. With respect to the Ultra Conservative/In College Portfolio, the Investment Policy states that this portfolio is to:

Invest in bond and money market investments in order to seek the Portfolio’s objectives of income and protection of principal. This Portfolio seeks preservation of capital with minimal growth by investing primarily in bond Underlying Funds and money market

Underlying Funds to maintain stability. The target allocation is 60 percent bond Underlying Funds, and 40 percent in money market Underlying Funds. (Emphasis added.)

40.

With respect to Conservative/1-3 Years to College the Investment Policy states that this portfolio is to:

Invest primarily in bond and money market investments in order to seek the Portfolio's objectives of income and protection of principal. This Portfolio seeks preservation of capital with minimal growth by investing primarily in bond Underlying Funds to maintain stability. The target allocation is 20 percent equity Underlying Funds and 80 percent in bond Underlying Funds. (Emphasis added).

41.

With respect to the Balanced/4-6 Years to College Portfolio, the Investment Policy states that this portfolio is to:

Invest in a combination of conservative and aggressive investments in order to seek the Portfolio's objectives of both capital appreciation and income. This Portfolio seeks moderate growth by investing in a balanced asset allocation slightly weighted toward bond Underlying Funds over equity Underlying Funds. This Portfolio has a target allocation of 40% equity Underlying Funds and 60% bond Underlying Funds. (Emphasis added).

42.

With respect to the Moderate Portfolio/7-9 Years to College Portfolio the Investment Policy states that this portfolio is to:

Invest in a combination of conservative and aggressive investments in order to seek the Portfolio's objectives of both capital appreciation and income. This Portfolio seeks moderate growth by investing in a balanced asset allocation slightly weighted toward equity Underlying Funds over bond Underlying Funds. This Portfolio has a target allocation of 60% equity Underlying Funds and 40% bond Underlying Funds. (Emphasis added).

43.

With respect to the Aggressive Portfolio/10+ Years to College the Investment Policy states that this portfolio is to:

Invest primarily in equity investments in order to seek capital appreciation. This Portfolio seeks long-term growth by investing primarily in equity Underlying Funds. A percentage of assets will be invested in bond Underlying Funds to provide some protection from equity volatility. This Portfolio has an asset allocation target of 80% equity Underlying Funds and 20% bond Underlying Funds. (Emphasis added).

44.

Pursuant to its responsibilities under the PMA and the Investment Policy, OFI recommended portfolio allocations and underlying funds for those portfolios. Initially, OFI proposed only two underlying funds, the OppenheimerFunds Bond Fund and the OppenheimerFunds Main Street Opportunity Fund. The Oregon Board requested additional choices and OFI eventually recommended portfolios that included allocations to 7 underlying funds, as well as a money market fund. OFI also provided the Oregon Board with a number of different allocation scenarios that it recommended, and represented that these scenarios were consistent with the investment objectives of the various portfolios as stated in the Investment Policy. The Oregon Board relied upon the advice and recommendations of its Program Manager, OFI.

45.

The final portfolios contained allocations to the Bond Fund as follows:

<u>Portfolio</u>	<u>% in OppenheimerFunds Bond Fund</u>
Ultraconservative	20
Conservative	35
Balanced	30
Moderate	20
Aggressive	10

These percentages adjusted slightly in April 2008 for those Portfolios sold in the “adviser-sold” plan. They remained the same in the “direct-sold” plan.



C. The Oppenheimer Bond Fund, a seemingly conservative bond fund, changes its investment style and increases its risk over time, from 2004 to 2008.

1. The Core Bond Fund takes undisclosed risks.

46.

As stated above, for each of the portfolios in the Oregon Plan that OFI managed, it recommended the Oppenheimer Bond Fund. Subsequently, this fund was renamed the Oppenheimer Funds Core Bond Fund. In 2004, OFI represented to the Oregon Board that the Oppenheimer Bond Fund

is designed to take advantage of opportunities presented by a wide range of high quality corporate bonds combined with an ancillary focus on government bonds, including mortgage agency paper. This broad diversification is designed to give us the flexibility to provide competitive yields from a portfolio with potentially less volatility.

47.

The Oregon Board paid OFI \$250,000 to \$350,000 in program management fees (based on a percentage of the total plan assets) to advise the board and select investment funds consistent with the adopted Investment Policy. OFI also acted as the investment manager for the Core Bond Fund in which the Oregon Plan was heavily invested. The Oregon Trust, as an investor in the Core Bond Fund, also paid OFI a separate investment management fee of approximately 50 basis points (varying over time) to manage the Core Bond Fund. (A basis point is 1/100 of a percent so that 50 basis points equal .50 percent). This was approximately \$300,000 per year in additional Core Bond Fund management fees over the last two years. The Oregon Trust also paid other sales, marketing, and "other expense" charges charged directly by the Core Bond Fund. As the investment manager for the Core Bond Fund, OFI chose the underlying securities that were purchased in the Core Bond Fund and ultimately made the decision to turn the Core Bond Fund into a high-risk, hedge-fund like investment fund.

1 48.

2 Due to its position as the investment manager for the Core Bond Fund, OFI was in the
3 unique position of having complete access to information regarding the Core Bond Fund and its
4 investment activities. Despite the fact that it was managing the Core Bond Fund, and therefore
5 clearly was aware of Core Bond Fund's changing objectives and risks, until January 22, 2009,
6 OFI never indicated to the Oregon Board that the objectives or risk profile of the Core Bond
7 Fund had been changed or modified. In fact, OFI continued to recommend and represent that the
8 Core Bond Fund was appropriate for all of the Oregon Plan portfolios, including the
9 Conservative and Ultra Conservative Portfolios. However, for the first time, on January 22,
10 2009, OFI's Chief Investment Officer, Kurt Wolfgruber, informed the Oregon Board that the
11 Core Bond Fund was "a long-term vehicle, appropriate for investors who are willing to assume
12 the risk of investing in broadly defined, taxable, fixed income securities and can also handle the
13 risk of the impact of changing interest rates on those securities' prices. To be clear, the fund was
14 not a short-term bond fund."

15 49.

16 OFI never disclosed this information to the Oregon Board at any time before January 22,
17 2009. OFI also stated for the first time, on October 23, 2008, that the Core Bond Fund was
18 actually being managed by a "Core Plus" strategy. At no time before October 23, 2008, did OFI
19 even use the term Core Plus with respect to the Core Bond Fund.

20 50.

21 The difference between Core and Core Plus is significant to those who are
22 knowledgeable about mutual fund names and strategies because a Core Plus strategy allows the
23 managers to reach for greater returns, and grants them greater latitude to construct a portfolio
24 that deviates from the benchmark index. For example, the objective of OFI's Core strategy was
25 to achieve excess returns, relative to its benchmark, of 75 basis points. The Core Plus strategy
26 seeks to achieve even greater returns relative to the same benchmark, from 100 to 125 basis



1 points (or 1 to 1.25 percent). In other words, the Core Plus strategy seeks to achieve excess
2 returns of as much as 160 percent greater than the Core strategy. It is a well-known principle in
3 fixed income investing that significantly greater returns can only be achieved through the
4 assumption of greater risk, and that was precisely the outcome from this undisclosed switch to a
5 higher return objective.

6 51.

7 In the case of the Core Plus strategy, that greater risk was incurred through a relaxation of
8 restrictions on acceptable portfolio construction. This is evident in the large difference in the
9 allowable "tracking error" range between the Core and Core Plus strategies. Tracking error
10 measures how closely an investment fund follows the index to which the fund is benchmarked.
11 In this instance, the Core Bond Fund was benchmarked against the Lehman Brothers (now
12 Barclays Capital) Aggregate Bond Index. A higher tracking error indicates that the fund
13 manager has greater discretion and intends to take a higher risk in order to deviate from a pure
14 replication of the benchmark index. As alleged in detail below, the Core Bond Fund
15 substantially exceeded its assigned tracking error relative to its benchmark bond index.

16 52.

17 For the Core strategy, the acceptable tracking error range is between 75 to 125 basis
18 points. This means that the portfolio managers have license to construct a portfolio that differs
19 from the benchmark index, provided that the difference in expected return of the portfolio versus
20 the index falls between 75 to 125 basis points (or .75 to 1.25 percent). The Core Plus strategy,
21 on the other hand, operated within a tracking error range of 125 to 200 basis points. This 160
22 percent increase in the tracking error range provides a much wider tolerance for the construction
23 of a portfolio that could differ significantly, up or down, from its performance benchmark.

24 53.

25 Until October 23, 2008, well after significant losses had already occurred, OFI never
26 disclosed to the Oregon Board that the Core Bond Fund was operated with a Core Plus strategy.

1 Even then, the disclosure occurred only in an offhanded manner, without any real reference to
2 the significant differences. From 2004 through 2006, the Core Bond Fund generated returns
3 consistent with what one would expect from a fund with a name like Core Bond Fund. Despite
4 the undisclosed additional risks with respect to its benchmark that it might have been taking
5 during this period, it seemed to provide low volatility, protection of principal, and income.
6 Accordingly, there were no performance issues that might have raised suspicion about the
7 management of the fund. In 2007, however, the Core Bond Fund altered its investment style and
8 risk profile and began to significantly increase its risk. Most significantly, the Core Bond Fund
9 began to seek alternative investments in the hopes of seeking much higher returns, including
10 dramatically increasing its use of derivative instruments and purchasing highly volatile
11 mortgage-related bonds.

12 54.

13 In addition, the Core Bond Fund began to take unnecessary risks by significantly
14 increasing its use of leverage. OFI failed to disclose or discuss this change in investment
15 strategy to the Oregon Board. While the use of leverage can increase the potential return of a
16 fund, it also greatly increases the potential loss. The reason that leverage has this two-edged
17 effect is that it allows a fund to participate in the gains and losses on a pool of assets that is
18 greater than the amount of dollars actually invested in the fund. Any gains on those extra assets
19 flow directly to the shareholders, but any losses come directly out of the investors' capital. In
20 effect, investors are in a first-loss position, much like a homeowner who buys a house with a
21 down payment and a mortgage.

22 55.

23 Unbeknownst to the Oregon Board, OFI either did not have or did not follow industry-
24 standard risk management policies for the Core Bond Fund, thus allowing its managers to take
25 unnecessary and reckless risks. Further, as discussed in more detail below, OFI intentionally
26 ignored internal risk management guidelines in order to position the Core Bond Fund to achieve



1 continued to decline precipitously in the latter half of 2008, and the Core Bond Fund realized
2 substantial declines in its portfolio value as a result of the leverage in these speculative swap
3 positions.

4 58.

5 The Core Bond Fund also purchased and sold credit default swaps. Credit default swaps
6 are essentially insurance contracts that insure against the default on debt securities such as
7 corporate bonds. In a credit default swap, two parties enter into a private contract whereby the
8 buyer of the protection agrees to pay the seller premiums over a set period of time, which is
9 typically four or five years. In exchange, the seller agrees to pay the buyer in the event a
10 particular pre-defined credit event occurs, such as a default on the underlying security. In this
11 manner, a credit default swap functions as an insurance policy. The buyer of credit protection
12 can use the swap to hedge an existing position in a particular security. The writer of credit
13 protection receives a regular insurance premium, in the hope of not having to pay an insurance
14 "claim."

15 59.

16 In 2008, the Core Bond Fund entered into a significant number of credit default swaps,
17 but not as a buyer of credit protection to hedge existing fund holdings. Instead, it became a
18 significant seller of credit protection, essentially writing insurance on corporate bonds. This had
19 the effect of adding leverage, because the Fund was in a position to realize the full impact of
20 price declines in the bonds it was insuring, even though it did not have actual ownership of those
21 bonds and received a small amount of income relative to the risk to the Fund.

22 60.

23 The Core Bond Fund not only engaged in risky selling of protection on corporate bonds,
24 it sometimes actually sold protection on the issuers of bonds that it also owned in the Fund,
25 thereby doubling or tripling its bet with respect to the credit-worthiness of those issuers. For
26 example, as of June 30, 2008, the Core Bond Fund held bonds issued by AIG, Lehman Brothers,



1 Merrill Lynch, Citigroup, General Motors, and Ford Motors. At the same time, the Core Bond
2 Fund was selling protection, credit default swaps, on bonds by these very issuers. In other
3 words, if one of the issuers, like Lehman Brothers, went into default on its bonds, not only would
4 the Core Bond Fund lose value in the bonds of Lehman Brothers that it currently held, it would
5 also be responsible for making payments to other holders of Lehman Brothers' bonds who had
6 purchased the credit protection sold by the fund. By selling credit protection on these issuers, the
7 managers were gambling that no credit events requiring a payment would occur in these issuers
8 prior to the expiration dates of the swaps, and that the fund would pocket the fixed premium
9 being paid by the protection buyer. By selling protection in names that the portfolio was long,
10 the managers risked a loss both of bond value and of a payout on the credit default swap. In this
11 manner, these credit default swaps constituted highly speculative bets on these issuers, and
12 multiplied the Core Bond Fund's risk of loss in these corporate issuers.

13 61.

14 This practice of writing credit protection was not a minor activity for the Core Bond
15 Fund. By August 2008, it has been estimated that the fund's net notional exposure to credit
16 default swaps was over \$850 million. In other words, the \$2 billion fund had additional exposure
17 to the credit performance of an additional \$850 million in corporate credits. In this manner, the
18 credit default swap activity added significant leverage, and greatly increased fund holders'
19 exposure to loss.

20 62.

21 OFI has indicated that in 2008 the managers of the Core Bond Fund stopped adding to the
22 Fund's position or exposure to Residential Mortgage-Backed Securities ("RMBS"), and instead
23 began to increase its exposure to corporate bonds. However, the managers failed to disclose that
24 it was heavily weighting this corporate bond allocation to the financial sector. Many of these
25 same financial companies themselves were heavily exposed to the RMBS market, so by
26 overweighting its position in financial sector bonds, the Core Bond Fund actually increased its

1 overall exposure to problems in the housing sector, as well as to all the other problems plaguing
2 the financial sector, which were well-known at the time. This over-concentration in RMBS and
3 financial sector bonds ultimately resulted in huge losses to the Core Bond Fund

4 **3. The Core Bond Fund increases its risk, makes hedge fund-like bets,**
5 **and exceeds its own ever-changing internal risk controls.**

6 63.

7 In the first half of 2008, the Core Bond Fund began to add significantly to its exposure to
8 the CMBS sector. As previously explained, it did this by an ever-escalating position in total
9 return and credit default swaps on various CMBS indices. As the “spread” between CMBS and
10 Treasury bonds widened steadily in the first half of 2008, the managers quickly and dramatically
11 ramped up the fund’s exposure to this sector through the use of total return and credit default
12 swaps, increasing the already excessive risk. As spreads continued to widen throughout the year,
13 the managers made a large bet on the “opportunity of a lifetime” without regard to the risk to
14 investors or their own internal risk factors. They continually escalated the size of the bet that
15 spreads would narrow by continually adding to the Fund’s already excessively risky position in
16 CMBS total return swaps.

17 64.

18 Between April 30, 2007, and July 31, 2008, the Core Bond Fund increased its notional
19 exposure to CMBS total return swaps from approximately \$15 million to \$900 million, an
20 increase of 6,000 percent. In other words, as of the end of July 2008, the approximately \$2
21 billion Core Bond Fund was exposed to the performance of an additional \$900 million in assets
22 that it did not actually own. In this manner, the one-sided and speculative bet on the direction of
23 CMBS spreads added leverage and grossly increased the fund holders’ exposure to the risk of
24 loss.

65.

On October 23, 2008, OFI made a presentation to the Oregon Board which included a discussion of the Core Bond Fund. At the presentation were Kevin Dachille and Dan Herrmann of OFI. Kevin Dachille is an investment director of OFI who works with the fixed income teams articulating their investment policy, strategy and performance to existing and prospective institutional clients. During his presentation to the Board, Kevin Dachille explained the situation in 2008 as follows:

MR. DACHILLE: ... Now, this is a trying time, because every time we bought something, it went down in price. And we'd buy it again, and it would go down in price. And we'd buy it again, and it would go down in price. To the point where right at the eve of the Bear Stearns episode in mid-March, we were, for all intents and purposes, all in. Ninety-five percent of our risk budget was -- we still have 95 percent of our risk budget, so the last six months we have not added to aggregate risk, but rather just held our position or stayed the course.

MR. EDWARDS: So why would you keep buying? I mean, hindsight is always 20/20. But what was it forcing you to --

MR. DACHILLE: Valuations got more attractive.

MR. DACHILLE: And so we were getting greedy. That's how we -- when the value increases --

-- we back up the truck.

MR. EDWARDS: Well, let me ask you, is this abnormal? Has the fund done this before where you've kept the steady buying spree --

MR. DACHILLE: Never like this.

MR. EDWARDS: -- and took a risk budget --

MR. DACHILLE: Never like this.

MR. EDWARDS: -- up like that?

MR. DACHILLE: No. We've never gotten close to our maximum.

(Emphasis added).

1 66.

2 In other words, by April 2008, the Core Bond Fund had placed such a large bet that for
3 the purposes of assessing its risk, it was in OFI's own words "all in."

4 67.

5 In addition to fully expending its risk budget, in April 2008, the Core Bond Fund's
6 internal risk profile indicated that it was positioned to achieve inordinately high excess returns
7 compared to its benchmark. These potentially inordinate returns created correspondingly
8 inordinate risks. The so-called Core Plus strategy that was used to manage the Core Bond Fund,
9 set an *ex ante* target for excess return over the benchmark of between 100 to 125 basis points, or
10 1 percent to 1.25 percent. However, internal documents indicate that as early as April 1, 2008,
11 the composition of the Core Bond Fund was such that prospective excess return over the
12 benchmark was already forecast to be 1,058 basis points or 10.58 percent, well in excess of
13 OFI's own internal guideline, and an extraordinary level of risk and deviation from the
14 benchmark index. An excess return of this size, and the risk required to achieve it, was totally
15 inappropriate for a fund labeled as a "core" bond fund and was particularly inappropriate for the
16 college savings plan portfolios. Moreover, OFI never disclosed to the Oregon Board that the
17 Core Bond Fund was taking enormous risks in an effort to generate additional returns of almost
18 10 times the excess returns it represented to the investors.

19 68.

20 Navin Sharma is OFI's Director of Risk Management. His role is to prevent OFI
21 portfolio managers from taking too much risk or exceeding internal risk management guidelines.
22 On April 1, 2008, Sharma informed Ben Gord, a portfolio manager who helped manage the Core
23 Bond Fund, that the team had been exceeding the "pre-set limits" set forth in the firm's risk
24 models. In response to Mr. Sharma's warning, Gord told his team that it "was obvious from the
25 start" that Sharma did not "understand[] why he's been asked to do what he does." Rather than
26 heed the warning to control risk and change practices, Gord informed Sharma that "maybe the

1 guidelines have actually done their job, that we're taking big bets and now he knows about it[.]"

2 (Emphasis added). Despite the stated warnings of its risk managers, OFI continued to make bets

3 throughout 2008 that were even bigger than the "big bets" it made in April that caused it to

4 exceed its risk controls.

5 69.

6 The following week, April 8, 2008, the Core Bond Fund's internal risk profile documents

7 again confirm that the managers had exceeded the Fund's risk budget. According to the

8 documents, it had expended over 121 percent of its risk budget based upon the metric used the

9 previous week. Indeed, in his October 23, 2008, presentation to the Oregon Board, Mr. Dachille

10 stated that for the Core Bond Fund a tracking error of 200 basis points, which would be a fully

11 expended risk budget of 100 percent, was a "hard maximum." Nonetheless, on April 8, 2008,

12 the tracking error was 242 basis points, a 21 percent overage in the risk budget.

13 70.

14 Apparently unwilling to lower the risk profile to the required parameters, and likely

15 hoping to achieve outsized returns, OFI changed the metric used to calculate the amount of risk

16 budget remaining. Accordingly, while the old metric showed the Fund exceeding its risk budget

17 by 21 percent, using the new metric starting on April 2008, OFI's internal documents showed a

18 risk budget remaining of 31 percent. This more favorable metric would be used by OFI for the

19 rest of 2008 in calculating the risk budget remaining. The previous metric was disregarded even

20 though it reached as high as 145 percent by the end of 2008. OFI failed to disclose to the Oregon

21 Board that it had abandoned the old metric used to assess risk.

22 71.

23 As evidenced by the above, OFI repeatedly exceeded the Core Bond Fund's risk budget

24 in an effort to generate outsized returns. OFI failed to disclose that the Core Bond Fund was

25 engaging in risky hedge fund-type activities and was regularly exceeding its internal controls. In

1 addition, OFI failed to disclose that throughout 2008, the Core Bond Fund regularly exceeded its
2 stated tracking error range and excess return guidelines.

3 **D. OFI breaches its duties as an investment adviser to the Oregon Plan by**
4 **failing to disclose the risk and continuing to recommend the now high-risk**
5 **Core Bond Fund in the Oregon Plan portfolios.**

6 72.

7 From June 2004 through October 2008, OFI made quarterly reports to the Oregon Board.
8 At no time during this period did OFI indicate any significant issues, events or changes in the
9 Core Bond Fund.

10 73.

11 Further, with one exception, OFI never recommended changes in portfolio allocations.
12 The one exception occurred in April 2008 when the adviser-sold option within the Oregon Plan
13 underwent a number of changes in portfolio allocations in underlying funds purportedly for the
14 purpose of seeking higher returns.

15 **E. OFI reveals that it was aware of the risks being taken by Core Bond, tries to**
16 **convince Oregon that it should stay in Core Bond but also admits, for the**
17 **first time, that Core Bond was too aggressive for some portfolios and that it**
18 **had never fulfilled its duties under the PMA to evaluate portfolios and**
19 **underlying funds.**

20 74.

21 As of the October 23, 2008, Board meeting, the Core Bond Fund was down over
22 11 percent for the third quarter alone and over 12 percent for the year-to-date. When asked by
23 Treasurer Randall Edwards to put the loss in layman's terms, Kevin Dachille replied, "mind-
24 numbing."

25 75.

26 In the face of these dismal performance numbers, Mr. Dachille nonetheless offered the
following hope:

Our story isn't one of despair, however. As I mentioned, the bond
market has been dealing with this for about a year and a half, and
some of the more recent -- and we'll talk about this in a little bit,
but some of the more recent policy initiatives, not just in the

1 United States, but worldwide, give us a great deal of hope. And so
 2 it is one of those messages that yes, things are pretty bad now.
 3 We're under tremendous stress. The cavalry isn't just coming, it's
on its way.

4 * * *

5 And what I want to talk about specifically with regard to this
 6 underperformance is what bond guys like me refer to as permanent
 7 impairment versus recoverable losses, because far and away, the
underperformance that you're seeing right here is in recoverable --
highly recoverable losses.

7 76.

8 In his presentation, Mr. Dachille presented a chart, attached as Exhibit 2, that shows the
 9 portfolio performance attribution of the various sectors in which the Core Bond Fund invests. In
 10 other words, it shows the sectors that contributed the most to the Core Bond Fund's gains or
 11 losses. This chart reveals that the greatest contributor to the Fund's losses thus far in 2008 were
 12 its CMBS holdings, which contributed 451 basis points to the losses. Nonetheless, Mr. Dachille
 13 stated that the Core Bond Fund was well positioned for a significant recovery in the CMBS
 14 sector:

15 But more importantly, were spreads to come back to where they
 16 rallied to at the end of May -- and by no means would this be a
 17 normal environment, just to come back into some form of
 18 reasonableness -- these have well double digit return potentials that
 19 we're looking at here.

20 So to us, this is why we fell in love with this asset.

21 77.

22 The second largest contributor to the Core Bond Fund's poor performance was the
 23 RMBS sector, contributing 412 basis points to the Fund's losses for the first three quarters of
 24 2008. With regard to that sector, Mr. Dachille stated:

25 They're well into the double digits for just the carry trade if you
 26 will, of moving into non-agencies. And the potential total rate of
 return on yields coming back to some sort of normal range -- and
 by that, I mean just where they were at the end of May, not back to
 where their historical averages are. -- believe it or not, puts the
total return potential on these close to 30 percent.

78.

In an acknowledgment of OFI's failure to fulfill its responsibilities to the Oregon Plan with respect to portfolio allocations and risks of underlying funds, Mr. Dachille revealed that OFI, for the first time since it had been hired as the Oregon Plan's investment adviser was going to undertake a review of the portfolios, the underlying funds, and their respective risks, stating:

And one -- and one thing that we've directed the consultant to do with this is we're going to look at the risk. We're going to look at where we need to be on how much risk we want to take in all the portfolios.

The point about what fund is proper for what age band, that's going to be looked at very closely. I mean, core bond may be perfectly fine for the first two portfolios, and not for the last two.

You know, that's clearly been the one fund that's been the most egregious. But, again, we're going to look at every single fund that Oppenheimer has and say, okay, where do we want be on the risk spectrum, in what portfolio. So we're going to look at them portfolio by portfolio, not just where we're going to pick three equity funds and say 20 percent here, 10 percent here. We're going to look at each portfolio separately and then build the portfolio from there. That's our new strategy. (Emphasis added).

79.

In other words, OFI stated that it had a "new strategy" for building portfolios with investments that were matched to the portfolios' risk profiles despite the fact that it had this legal duty from the outset of its contractual and fiduciary adviser relationship to the Oregon Trust.

80.

As of the October 23, 2008 Oregon Board meeting and before, OFI knew the following:

- (a) The Core Bond Fund had exceeded its risk budget since April 2008;
- (b) The Core Bond Fund had incurred significant losses as result of taking excessive risks such as in CMBS, Corporate Financial Bonds, and RMBS.
- (c) The Core Bond Fund was positioned such that it might achieve significant excess returns over its benchmark or be exposed to significant losses;
- (d) That the losses year-to-date in the Core Bond Fund of 12 percent were "mind-numbing;"

(e) That the Core Bond Fund was being operated more as a hedge fund than a Core Bond Fund;

(f) That the Core Bond Fund was using leverage that amplified the risks;

(g) That the Oregon Plan and the Oregon Board were concerned about preventing any further losses; and,

(h) That the Oregon Board was relying upon OFI's knowledge of the Core Bond Fund and its expertise as an investment adviser.

81.

Nonetheless, OFI never recommended to the Oregon Board that the Oregon Plan pull its assets from the Core Bond Fund despite the fact that the Oregon Plan was exposed to significant additional risk by remaining in the Core Bond Fund going forward. OFI failed to recommend an appropriate change in the bond fund because it was motivated, not in the best interests of the Oregon Plan, but rather to maximize the management fees of OFI as well as to prevent a mass exodus of investments by the Oregon College Savings Plan and other college savings plans from the Core Bond Fund and other Oppenheimer Funds investments. OFI also did not have an appropriate core bond fund to offer to the Oregon Plan.

F. OFI's statement at the Oregon Board January 22, 2009 board meeting further highlights the hedge fund-type risks taken by OFI with the Core Bond Fund and the failure of OFI to make recommendations in the best interest of the Oregon Plan.

82.

In his presentation to the Oregon Board on January 22, 2009, OFI's Chief Investment Officer, Kurt Wolfgruber, stated that a large part of the Core Bond Funds' poor performance was due to the fact that "interest rates spreads widened to levels never seen before." He went on to explain the issue as follows:

First, the spreads. Spreads between the yields on CMBS, or Commercial Mortgage Backed Securities and Treasury Bonds, widen to unforeseeable levels. Between 1988 and 2007, historical spreads for these types of securities averaged less than 1 percent [or 100 basis points]. Indeed, actually a move of five basis points . . . was deemed to be a lot. At the start of 2008, it [CMBS spread]

1 stood at 1.75 percent and climbed to 4.75 percent during the Bear
2 Stearns crisis. On November 21st, that spread peaked at 15.6
3 percent, so nearly 16 times than what we would view as the normal
4 spread level for those instruments.

83.

5 Mr. Wolfgruber was claiming that what occurred in November 2008 was unforeseeable,
6 i.e., that the possibility that spreads could widen so dramatically was unprecedented.

7 Mr. Wolfgruber wanted the Oregon Board to believe that OFI could never have anticipated the
8 widening of CMBS spreads. In fact, the result was predictable and known to OFI in light of its
9 own risk tracking data.

84.

11 Mr. Wolfgruber's statements failed to describe the unprecedented widening that had
12 already occurred in CMBS spreads. Instead, the statements highlighted the "all in" mentality
13 that caused the Core Bond Fund to be run more as a hedge fund than a core bond fund.

14 Mr. Wolfgruber was correct that historically spreads for CMBS securities averaged less than
15 1 percent or 100 basis points. In fact, between January 2004 and June 2007, CMBS spreads were
16 consistently between 25 to 30 basis points. However, by November 2007, CMBS spreads had
17 more than doubled to 70 basis points. As Mr. Wolfgruber noted, a move of even 5 basis points
18 was "deemed to be a lot." This was a move of 40 basis points, or eight times more than a
19 movement that he deemed to be significant.

85.

21 The unprecedented widening of CMBS spreads was only beginning. By January 2008,
22 CMBS spreads more than doubled once again to 152 basis points, or in excess of 500 percent of
23 CMBS spreads just six months earlier. Within the next five or six weeks, by February 15, 2008,
24 spreads had once again doubled to 308 basis points. Thus, in just eight months, spreads had
25 increased over 1,000 percent. Given this prior and already unprecedented widening of CMBS
26 spreads, the Core Bond Fund managers could not reasonably rely upon historical patterns or the

1 theoretical premise of reversion. The decision of OFI to continue to use leverage to increase the
2 Core Bond Fund's exposure to CMBS until it was "all in," was unreasonable and reckless for a
3 bond fund that OFI used in connection with college savings plans. It also was done in total
4 disregard of OFI's own risk metrics and controls.

5 86.

6 Unfortunately, OFI's investment managers for the Core Bond Fund continued their hedge
7 fund bets. After losing a "mind numbing" 11 percent in the third quarter of 2008, by the time
8 Mr. Dachille appeared before the Oregon Board on October 23, 2008, CMBS spreads had once
9 again doubled from February 2008, and were then at 676 basis points, 10 times the spread just
10 one year earlier and 20 times the spread average from 2004 to 2007. In other words, as of the
11 October 23, 2008, Board meeting, OFI knew that it had repeatedly been wrong in its bets on
12 CMBS spreads, had already lost 11 percent in just the third quarter alone, was facing CMBS
13 spreads that defied any historical precedent, and was acting without regard to its own risk metrics
14 or risk controls.

15 87.

16 Nonetheless, at the October 2008 board meeting, OFI never advised the Oregon Board of
17 the huge risks being taken by the Core Bond Fund or of the fact that the Core Bond Fund
18 managers were continuing to place hedge fund-type bets. Instead, OFI reassured the Oregon
19 Board that "the cavalry is on its way." OFI spoke only about the potential upside of the CMBS
20 position held by the Core Bond Fund, never advising the Oregon Board that it had placed a bet
21 that could and did result in a 26 percent loss in the fourth quarter alone. As the Oregon Plan's
22 Program Manager, OFI owed the Oregon Plan a duty to disclose the highly risky position in
23 which the Core Bond Fund found itself in October 2008.

1 88.

2 While the Core Bond Fund lost a total of nearly 36% for the year 2008, its benchmark
3 index was actually up 5% for the year. Through March 2009, the Core Bond Fund lost another
4 10% while the index remained virtually even.

5 89.

6 Prior to the plan's investment in the Core Bond Fund, OFI employed a management team
7 in Boston headed by Angelo Manioudakis to oversee the Core Bond Funds' investments. In the
8 wake of the devastating losses in the Core Bond Fund, OFI pulled the Core Bond Fund
9 management team from Boston back to its New York office. Manioudakis and all of his top
10 level managers have since left OFI and, for the first time, OFI has hired a Chief Risk Officer.

11 90.

12 Since leaving OFI, Manioudakis has stated that he never had any knowledge that the
13 Core Bond Fund was being used by OFI to invest money from the Oregon College Savings Plan.

14 **G. The Oregon Board terminates the Core Bond Fund (and the Limited Term**
15 **Government Bond Fund).**

16 91.

17 Despite OFI's assurances at the October 2008 Board Meeting, the Oregon Board engaged
18 an independent firm to review the Oregon Plan portfolios after that meeting. As the result of this
19 review, the Oregon Board decided at the January 22, 2009 meeting to terminate the Oregon
20 Plan's participation in the Core Bond Fund and the Limited Term Government Bond Fund as
21 soon as possible. It finalized that plan at a follow-up meeting of the Oregon Board on February
22 26, 2009. The Core Bond Fund and Limited Term Government Funds were fully liquidated and
23 exchanged into index funds on or by March 27, 2009.

H. Defendants' Continued Recommendation and Sale of the Core Bond Fund to the Trust Portfolios Violated the PMA and The Adopted Investment Policy.

1. OFI breached its duties under the PMA.

92.

As alleged at length above, OFI had a number of contractual duties including but not limited to "determining that the investment objectives, policies, and practices of the Underlying Funds in which the Trusts assets are invested [e.g., the Core Bond Fund] are consistent with the Board's Investment Policy and applicable law." PMA Section 5.2(b). It also had the continuing duty to "at least annually, review the Investment Portfolios of the OCS Plan" and "shall from time to time propose . . . the modification of the Underlying Funds [e.g., the Core Bond Fund] in which certain existing Investment Portfolios invest . . . all in accordance with the applicable Investment Policy and subject to Board approval." PMA Section 5.3. It had the further duty to inform the Oregon Board of material changes that impacted the Underlying Fund and the Oregon Plan. PMA Sections 4.1; 9.1(b).

93.

At least as of early 2008, OFI violated the PMA by, among other things:

- (a) failing to report to the Board that the investment objectives, policies, and practices of the Core Bond Fund were no longer consistent with the Board's Investment Policy;
- (b) continuing to recommend and selling the Core Bond Fund to each of the Portfolios in violation of the Board's Investment Policy; and,
- (c) failing to recommend that the Core Bond Fund be removed from each of the Portfolios because that Fund was in violation of the Board's Investment Policy.

These violations occurred across each of the Portfolios in the Plan as alleged below.

2. **OFI breached the PMA by recommending the Core Bond Fund for the Ultra Conservative/In College or the Conservative/1-3 Years to College Portfolios.**

94.

The Investment Policy provided that the Ultra Conservative/In College and Conservative/1-3 Years to College Portfolios had the primary investment objectives of “protection of principal” and “income.” OFI was supposed to manage these portfolios by “preserv[ing] capital” and seeking “minimal income growth by investing primarily in bond Underlying Funds to maintain stability.”

95.

OFI, however, continued to recommend, use and sell the high risk Core Bond Fund in the Ultra Conservative/In College and Conservative/1-3 Years to College Portfolios. OFI generally recommended that Oregon have and, as a result, Oregon generally had 20 percent of the Ultra Conservative/In College Portfolio and 35 percent of the Conservative/1-3 Years to College Portfolio invested in the Core Bond Fund. At least as of early 2008, the Core Bond Fund did not meet the Investment Policy as to any portfolio that had “principal protection” and “minimal income growth” as its objectives. Indeed, Mr. Manioudakis, the former manager of the Core Bond Fund, has admitted that the Core Bond Fund was not designed to protect principal.

96.

At least as of early 2008 and continuing throughout the year, the Core Bond Fund did not meet the Investment Policy as to the Ultra Conservative/In College and Conservative/1-3 Years to College Portfolios for many of the reasons alleged above, including but not limited to the following:

- (a) The Core Bond Fund took hedge fund-like risks that exposed it to substantial swings in the market;
- (b) Those who invest for children in college or just a couple of years from college cannot afford to take hedge fund-like risks because they will have an immediate or imminent need to use their money;

(c) The Core Bond Fund sought much higher returns and took much higher risk through perceived "once-in-a-lifetime" opportunities in which OFI recommended that those investing for college "back up the truck" and make "all in" bets that were not appropriate for a portfolio designed to protect principal and obtain minimal income;

(d) The Core Bond Fund had substantial investments in derivatives, swaps, sub-prime mortgage-backed securities and other similar investments that, particularly taken together, were not designed to preserve principal or seek minimal income growth;

(e) The Core Bond Fund used leverage, exposing investors to the risk of suffering losses greater than just the money invested in the portfolio; such leverage was inappropriate for those who wanted to preserve principal for the immediate costs of education;

(f) At least as of early 2008, the Core Bond Fund, by OFI's own admission, was only appropriate for those investors with a long term investment horizon. By definition, the Ultra Conservative/In College and Conservative/1-3 Years to College Portfolios were intended for people who needed money for college immediately or in the next 1-3 years.

3. The Core Bond Fund was not consistent with the investment objectives of the remaining portfolios.

97.

The Core Bond Fund also was not appropriate for the Balanced/4-6 Years to College, Moderate/7-9 Years to College or even the Aggressive/10+ Years to College Portfolios.

98.

The Balanced/4-6 Years to College and Moderate/7-9 Years to College Portfolios had investment objectives of "capital appreciation and income" through "moderate growth" with the Balanced/4-6 Years to College Portfolio slightly weighted towards bond funds and the Moderate/7-9 Years to College Portfolio slightly weighted towards equity funds. The funds were supposed to have a "combination of conservative and aggressive investments." The Balanced/4-6 Years to College Portfolio, however, generally had 30 percent of its portfolio in the Core Bond Fund and the Moderate/7-9 Years to College Portfolio generally had 20 percent of its portfolio in the Core Bond Fund. At least as of early 2008, there were two significant problems with these investments in the Core Bond Fund. First, the Core Bond Fund itself did not seek moderate growth but took hedge fund-like risks and sought hedge fund-like returns. Second, OFI used the

1 Core Bond Fund in the Balanced/4-6 Years to College and Moderate/7-9 Years to College
2 Portfolios as one of the purportedly “conservative investments” to balance out the greater risks,
3 and associated volatility, taken in the more aggressive equity investments. However, the effect
4 of the Core Bond Fund was not to make the portfolio risks more moderate through the addition
5 of a conservative investment, but to make the portfolios much more aggressive through the
6 addition of a higher-risk investment.

7 99.

8 At least as of early 2008, the Core Bond Fund was also an improper investment for even
9 the Aggressive/10+ Years to College Portfolio. The Aggressive Portfolio was designed to seek
10 capital appreciation. However, the Investment Policy provided that it also would invest “[a]
11 percentage of assets” in bond funds “to provide some protection from equity volatility.” The
12 Aggressive/10+ Years to College Portfolio generally had 10 percent of its portfolio in the Core
13 Bond Fund. The effect of this investment was not to provide protection from “equity volatility.”
14 Indeed, the investment in the Core Bond Fund in 2008 substantially increased the volatility of the
15 Aggressive/10+ Years to College Portfolio and subjected that portfolio to much higher risks.

16 **4. Defendants breached the “Representations, Warranties and**
17 **Covenants” in the PMA.**

18 100.

19 OFI and OFDI also made a number of representations, warranties and covenants, alleged
20 in greater detail above, that provided, among other things, that the “Plan Marketing Materials
21 (excluding information provided by the Board) shall not contain any untrue statement of material
22 fact or omit to state a material fact necessary to make the statements not misleading.” PMA
23 Sections 13.1(h); 13.2(h). OFI and OFDI further certified that the Plan Description, which was
24 also included within the Plan Marketing Materials, was complete, accurate, and did not include
25 any material misrepresentations or omissions. PMA Sections 3.2(b)(ii), (iii). OFI also had a
26

1 duty to update the Plan description if there were material developments arising after the Plan
 2 Description was initially prepared. PMA Section 9.1(b)

3 101.

4 As of early 2008, the Plan Description and Plan Participation Agreement prepared by OFI
 5 and OFDI, which was part of the Plan Marketing Materials sent to all participants for the direct
 6 and the advisor-sold plans, provided the following:

- 7 (a) For the Years to College Portfolio, "[i]nvestments are automatically moved to
 8 more conservative Portfolios that seek to preserve capital as the expected time for
 disbursement approaches."
- 9 (b) The Ultra-Conservative/In-College Portfolio invests in fixed income and money
 10 market investments "in order seek the Portfolio's objectives of income and
 11 protection of principal" and seeks "preservation of capital with minimal growth
 by investing primarily in fixed income mutual funds and a money market fund to
 maintain stability."
- 12 (c) The Conservative/1-3 Years College Portfolio invests "primarily in fixed income
 13 and money market investments in order to seek the Portfolio's objectives of
 income and protection of principal" and "seeks preservation of capital with
 14 minimal growth[.]"
- 15 (d) The Balanced/4-6 Years to College Portfolio "seeks moderate growth" by slightly
 weighting investments towards fixed income funds, such as the Core Bond Fund.
- 16 (e) The Moderate/7-9 Years to College Portfolio also "seeks moderate growth" by
 17 including fixed income funds, such as the Core Bond Fund.
- 18 (f) Even the Aggressive/10-plus Years to College Portfolio used "fixed income
 19 mutual funds," like the Core Bond Fund "to provide some protection against
 equity volatility."

20 Each of the statements contained above was either a misrepresentation or contained an untrue or
 21 material omission of fact because those getting closer to college did not move into a more
 22 conservative policy and the Core Bond Fund did not provide and was not designed to provide
 23 protection of principal. It also did not seek preservation of capital, minimal growth, moderate
 24 growth or provide some protection against equity volatility because Core Bond Fund, instead,
 25 was operated as a high-risk fund that sought speculative returns by taking very aggressive risks.

I. Defendants Acted in Concert and Knowingly Aided and Assisted Each Other's Tortious Conduct.

102.

Defendants acted in concert and knowingly aided and assisted each other's breach of duty to the Oregon Trust in connection with the sale of the securities at issue and the provision of services to the Oregon Trust. Each Defendant is therefore responsible for all actions, statements, and omissions of the other Defendants. Defendants are jointly liable for Plaintiff's damages.

J. OFDI Is Independently and Jointly and Severally Liable With the Other Defendants.

103.

OFI and OFI Private recommended and sold the Core Bond Fund securities to the Oregon Board. OFI and OFI Private marketed the sale of the Core Bond Fund through their preparation of the Trust marketing materials. Those Defendants breached the PMA and violated the law with the participation and assistance of defendant OFDI, which distributed the securities to the Oregon Trust. OFDI was a party to the PMA and facilitated the others in the sale of and sold Plaintiff securities in violation of the PMA and Oregon law.

K. The Oregon Trust's Damages

104.

Subject to additional proof at trial, the Oregon Trust suffered at least the following damages to each of the Portfolios:

Oregon Trust Portfolio Damages

Ultra Conservative/In-College:	\$1.73 million
Conservative/1-3 Years to College:	\$9.21 million
Balanced/4-6 Years to College:	\$8.97 million
Moderate/7-9 Years to College:	\$8.15 million
Aggressive/10+ Years to College:	\$8.21 million

1 The total Portfolio damages are in excess of \$36.2 million.

2 **VI. CLAIMS FOR RELIEF**

3 **FIRST CLAIM FOR RELIEF**
4 **VIOLATION OF OREGON SECURITIES LAW, ORS 59.137**

5 105.

6 Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs
7 as if fully alleged herein.

8 106.

9 Defendants sold the Oregon Trust securities and shares in the Core Bond Fund in
10 violation of ORS 59.137 by:

- 11 (a) employing a device, scheme and/or artifice to defraud;
12 (b) by engaging in acts, practices and a course of business that operated as a fraud or
13 deceit upon Plaintiff; and/or
14 (c) by making untrue statements of material fact and omitting to state material facts
15 necessary in order to make the statements made, in light of the circumstances
under which they were made, not misleading, as alleged herein.

16 107.

17 Defendants violated and/or materially aided in violations of ORS 59.135(1), (2), and/or
18 (3) in connection with the sale of the Core Bond Fund shares to the Oregon Trust.

19 108.

20 In addition, in advising Plaintiff regarding the securities and portfolios of securities at
21 issue, Defendants made material misrepresentations and omissions by virtue of their failure to
22 exercise reasonable care or competence in communicating information to Plaintiff.

23 109.

24 Defendants' conduct created a foreseeable risk that Plaintiff would invest in securities
25 and portfolios of securities and would sustain losses as a result thereof.

26

1 110.

2 As a direct result, Plaintiff invested in the securities and portfolios of securities at issue.

3 111.

4 OFI directly or indirectly controlled OFI Private and OFDI. OFI is therefore jointly and
5 severally liable to the same extent as OFI Private as OFDI pursuant to ORS 59.137(2).

6 112.

7 Defendants' violations of ORS 59.135 caused the Oregon Trust actual damages in excess
8 of \$36.2 million.

9 113.

10 Pursuant to ORS 59.137(1) Plaintiff is entitled to recover from Defendants, jointly and
11 severally, (1) damages in an amount to be proven at trial, which is in excess of \$36.2 million, (2)
12 the amount of fees or other remuneration paid to Defendants, and (3) interest as provided in ORS
13 59.137(1).

14 114.

15 Pursuant to ORS 59.137(4), Plaintiff is entitled to an award of its costs and reasonable
16 attorney fees.

17 **SECOND CLAIM FOR RELIEF**
18 **VIOLATION OF OREGON SECURITIES LAW, ORS 59.115(1)(b) AND 59.135**

19 115.

20 Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs
21 as if fully alleged herein.

22 116.

23 Defendants sold and/or successfully solicited the sale of the Core Bond Fund shares to
24 the Oregon Trust.

117.

Defendants sold and/or successfully solicited the sale of these securities in violation of
ORS 59.115(1)(b) and 59.135 by:

(a) employing a device, scheme and/or artifice to defraud;

(b) by engaging in acts, practices and a course of business that operated as a fraud or
deceit upon Plaintiff; and/or

(c) by making untrue statements of material fact and omitting to state material facts
necessary in order to make the statements made, in light of the circumstances
under which they were made, not misleading, as alleged herein.

118.

Plaintiff did not know of the untruth of Defendants' representations and was unaware of
Defendants' omissions.

119.

Defendants each participated and materially aided in the sale of securities at issue, and
are therefore jointly and severally liable for the violations of ORS 59.115 pursuant to
ORS 59.115(3).

120.

OFI directly or indirectly controlled OFI Private and OFDI. OFI is therefore jointly and
severally liable to the same extent as OFI Private and OFDI pursuant to ORS 59.115(3).

121.

Pursuant to ORS 59.115(2)(a), Plaintiff is entitled to recover from Defendants, jointly
and severally, rescissory damages of the consideration paid for the securities, plus interest
from the date of the purchase of the securities. Alternatively, pursuant to ORS 59.115(2)(b),
Plaintiff is entitled to recover from Defendants, jointly and severally, rescissory damages less
any amounts received for the securities plus interest in an amount to be proven at trial, which
amount is in excess of \$36.2 million.

122.

Pursuant to ORS 59.115(10), Plaintiff is entitled to an award of its costs and reasonable attorney fees.

**THIRD CLAIM FOR RELIEF
BREACH OF CONTRACT**

(Program Management Agreement)

123.

Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs as if fully alleged herein.

124.

The Oregon Board, on behalf of the Oregon Trust, entered into the PMA with Defendants OFI and OFDI. OFI Private may also be a party to that contract.

125.

Pursuant to the PMA, Defendants made a number of certifications, representations and warranties, and assumed numerous contractual duties as detailed in paragraphs 33-38, among others, above.

126.

Further, Defendants owed Plaintiff the duty of good faith and fair dealing implied in every contract. Plaintiff had a reasonable expectation that any materials prepared by Defendants pursuant to the PMA would not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made therein not misleading in light of the circumstances under which they were made. Plaintiff also had a reasonable expectation that any information provided by Defendants pursuant to the PMA would not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made not misleading in light of the circumstances under which they were made.

127.

Defendants breached the above-described contractual duties, representations, warranties and covenants as alleged herein.

128.

As a direct result of Defendants' breach of contract, Plaintiff has been injured in an actual amount to be proven at trial, which is in excess of \$36.2 million. Plaintiff is entitled to an award of prejudgment interest on this claim.

129.

Plaintiff is entitled to its attorney fees and costs under section 12.1 of the PMA.

**FOURTH CLAIM FOR RELIEF
BREACH OF FIDUCIARY DUTY**

130.

Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs as if fully alleged herein.

131.

As Plaintiff's investment advisers and broker-dealer, Defendants owed fiduciary duties to Plaintiff. Defendants owed Plaintiff the fiduciary duties of care, loyalty, honesty, and full and fair disclosure. Defendants also owed Plaintiff the duty to comply with all applicable standards of care, including applicable codes of professional conduct.

132.

Defendants breached the fiduciary duties they owed to Plaintiff in the course of advising Plaintiff regarding the Core Bond Fund. In advising Plaintiff regarding the Core Bond Fund, Defendants made material misrepresentations and omissions by virtue of their failure to exercise reasonable care or competence in communicating information to Plaintiff.

1 133.

2 Defendants' conduct created a foreseeable risk that Plaintiff would invest in the Core
3 Bond Fund and would sustain losses as a result thereof.

4 134.

5 As a direct result of Defendants' breaches of fiduciary duties owed to Plaintiff, Plaintiff
6 invested, continued to invest, and did not terminate its participation in the Core Bond Fund.

7 135.

8 As a direct result of Defendants' breaches of fiduciary duties owed to Plaintiff, Plaintiff
9 has been injured in an actual amount to be proven at trial, which is in excess of \$36.2 million.
10 Plaintiff is entitled to an award of prejudgment interest on this claim.

11 **FIFTH CLAIM FOR RELIEF**
12 **NEGLIGENCE**

13 136.

14 Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs
15 as if fully alleged herein.

16 137.

17 As Plaintiff's investment advisers and broker-dealer, Defendants had a duty to exercise
18 reasonable care and competence in obtaining and communicating information to Plaintiff and in
19 advising Plaintiff regarding the Core Bond Fund.

20 138.

21 Defendants breached the duties they owed to Plaintiff in the course of advising Plaintiff
22 regarding the Core Bond Fund. In advising Plaintiff regarding the Core Bond Fund, Defendants
23 made material misrepresentations and omissions by virtue of their failure to exercise reasonable
24 care or competence in communicating information to Plaintiff.

1 139.

2 Defendants' conduct unreasonably created a foreseeable risk that Plaintiff would invest in
3 the Core Bond Fund and would sustain losses as a result thereof.

4 140.

5 As a direct and foreseeable result of Defendants' conduct, Plaintiff has been injured in an
6 actual amount to be proven at trial, which is in excess of \$36.2 million. Plaintiff is entitled to an
7 award of prejudgment interest on this claim.

8 **SIXTH CLAIM FOR RELIEF**
9 **NEGLIGENT MISREPRESENTATION**

10 141.

11 Plaintiff incorporates and realleges the allegations contained in the preceding paragraphs
12 as if fully alleged herein.

13 142.

14 As Plaintiff's investment advisers and broker-dealer, Defendants had a special
15 relationship with Plaintiff. Defendants had a duty to exercise reasonable care and competence in
16 obtaining and communicating information to Plaintiff.

17 143.

18 In the course of their business relationship with Plaintiff, Defendants supplied false
19 information to Plaintiff regarding the Core Bond Fund and omitted to state material facts
20 necessary in order to make the statements made, in light of the circumstances under which they
21 were made, not misleading, as alleged herein. Defendants failed to exercise reasonable care in
22 obtaining information regarding the Core Bond Fund and/or in providing the information to
23 Plaintiff regarding the Core Bond Fund.

24 144.

25 Plaintiff justifiably relied on Defendants' misrepresentations and omissions in investing
26 in the Core Bond Fund.

1 145.

2 Plaintiff sustained damages as a result of their reliance on Defendants' misrepresentations
3 and omissions.

4 146.

5 As a direct and foreseeable result of Defendants' negligent misrepresentations and
6 omissions, Plaintiff has been injured in an actual amount to be proven at trial, which is in excess
7 of \$36.2 million. Plaintiff is entitled to an award of prejudgment interest on this claim.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff prays for judgment as follows:

10 A. Awarding Plaintiff compensatory damages in an amount in excess of \$36.2
11 million and in an exact amount to be proven at trial;

12 B. Awarding Plaintiff its costs and expenses for this litigation, including reasonable
13 attorneys' fees and expert witness fees pursuant to ORS 59.137(4) and ORS 59.115(10) and
14 Section 12.1 of the PMA;

15 C. Awarding Plaintiff prejudgment interest at the statutory rate of 9%; and

16 D. Awarding Plaintiff such other and further relief as may be deemed just and proper
17 under the circumstances.

VII. JURY DEMAND

Plaintiff hereby demands a trial by jury as to all issues.

DATED this 13th day of April, 2009.

JOHN R. KROGER
Attorney General

By: 

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Trial Attorneys: Keith S. Dubanevich, OSB No. 975200
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SRB 5/14/09 3:00 PM

Remote Case Register. Marion County Circuit Court Status Open
Case#..... 09C14018 Oregon State Of/Oppenheimerfunds Inc
Civil Contract

Case Filed Date..... 4/13/09 Starting Instrument.. Complaint
Case Started Date... 4/13/09 Originating From..... Original filing
At Issue Date..... Previous Court.....
First Setting Date.. Previous Court Case#.
Trial Scheduled Date Master Case Number...
Trial Start Date.... Relation to Master...
Length of Trial..... Amount Prayed for.... \$.00
Disposition Date.... Termination Stage....
Final Order Date.... Termination Type.....
Reinstated Date.....

Judgment Type.....
Judgment Status.....
Judgment Volume/Page.

ROLE	PLAINTIFF	ATTORNEY
1 Plaintiff	Oregon State Of	Dubanevich Keith S
Act by thr	Oregon 529 College Savings Boa	
2 Plaintiff	Oregon State Treasurer	Dubanevich Keith S
On Behalf	Oregon College Savings Plan T	

ROLE	DEFENDANT	ATTORNEY
1 Defendant	Oppenheimerfunds Inc	
2 Defendant	Oppenheimerfunds Distributor I	
3 Defendant	OFI Private Investments Inc	

ENTER DT	FILE DT	EVENT/FILING/PROCEEDING	SCHD DT	TIME	ROOM
1 4/13/09	4/13/09	Complaint Violation of The Oregon Securities Law			
2 4/13/09	4/13/09	Assigned Scheduled Judge Ashcroft	4/13/09		LEA
3 4/16/09	4/16/09	Notice/Rule 7 - 63 Scheduled service	6/22/09		LEA2
4 4/16/09	4/16/09	Notice/Rule 7 - 91 Scheduled answer	7/22/09		LEA2
5 5/13/09	5/13/09	Proof of Service CS-SUMMONS DEF 2 Oppenheimerfunds Distri 4/20/09 Served			
***** END OF DATA *****					

EXHIBIT F
PAGE 1 OF 1

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **NOTICE OF REMOVAL** on the following named person(s) on the date indicated below.

☒ mailing with postage prepaid

☐ hand delivery

☐ facsimile transmission

☐ overnight delivery

to said person(s) a true copy thereof, contained in a sealed envelope, addressed to said person(s) at their last-known address(es) indicated below.

Keith S. Dubanevich
Fredrick M. Boss
Simon Whang
Oregon Department of Justice
1162 Court Street NE
Salem, OR 97301-4096

Keith A. Ketterling
Scott A. Shorr
Jennifer A. Wagner
Stoll Stoll Berne Lokting & Shlachter P.C.
209 SW Oak Street, 5th Floor
Portland, OR 97204

DATED: May 15, 2009.

STOEL RIVES LLP


Barnes H. Ellis, OSB No. 640325
Brad S. Daniels, OSB No. 025178
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bsdaniels@stoel.com

Attorney for Defendants OppenheimerFunds,
Inc., OppenheimerFunds Distributor, Inc.,
and OFI Private Investments Inc.